

WIOA Local Four-Year Plan Signatories

Fiscal Years 2018 - 2021

MassHire Cape and Islands Workforce Board

Name of MassHire Workforce Board

This Local Four-Year Plan shall be fully executed as of the date of signature below, and effective through June 30, 2021. The Plan may be amended or modified if agreed to by all parties.

Signature indicates acceptance of the Local Four-Year Plan.

Typed Name: Ronald R. Beaty

Chief Elected Official (or Designee)

02/06/2019
Date

Typed Name: Christopher E. Richards

MassHire Workforce Board Chair (or Designee)

2/6/19
Date

Typed Name: David Augustinho

MassHire Workforce Board Director (or Designee)

2/5/19
Date

Typed Name: Kristina E. Dower

MassHire Career Center Director

2/4/19
Date

Typed Name: Michael Swaney

MDCS Operations Manager

2/4/19
Date

Typed Name: Kristina E. Dower

Title I Fiscal Agent

2/4/19
Date



**MassHire Cape & Islands Workforce Board
WIOA Local 4-Year Plan**

(a) Strategic Planning elements, including:

(1) A regional (local) analysis of:

- (i) Economic conditions including existing and emerging in-demand industry sectors and occupations; and**
- (ii) Employment needs of businesses in existing and emerging in-demand industry sectors and occupations.**
- (iii) As appropriate, your local area may use an existing analysis, which is a timely current description of the regional economy, to meet the requirements of paragraphs (a)(1)(i) and (ii) of this section;**

The regional (local) analysis is contained in the Cape and Islands Regional Workforce Blueprint (Attachment A), and the Cape and Islands Strategic Plan (Attachment B). The Cape and Islands is its own region.

The MassHire Cape & Islands Workforce Board (CIWB) has identified several priority and demand occupations/ sectors. These industries are often vital to the region's economic success.

- Hospitality
- Healthcare
- Construction
- Blue Economy
- Education

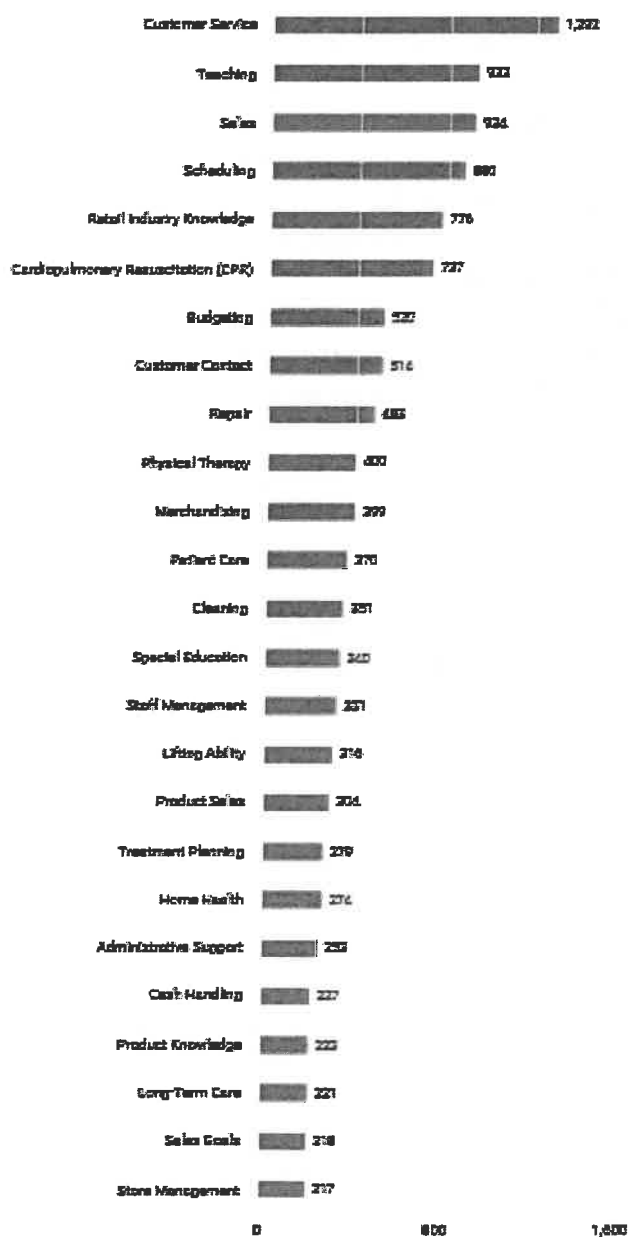
The CIWB places emphasis on the Blue Economy, Healthcare and STEM

(2) Describe the knowledge and skills needed to meet the employment needs of the businesses in your region, including employment needs in in-demand industry sectors and occupations.

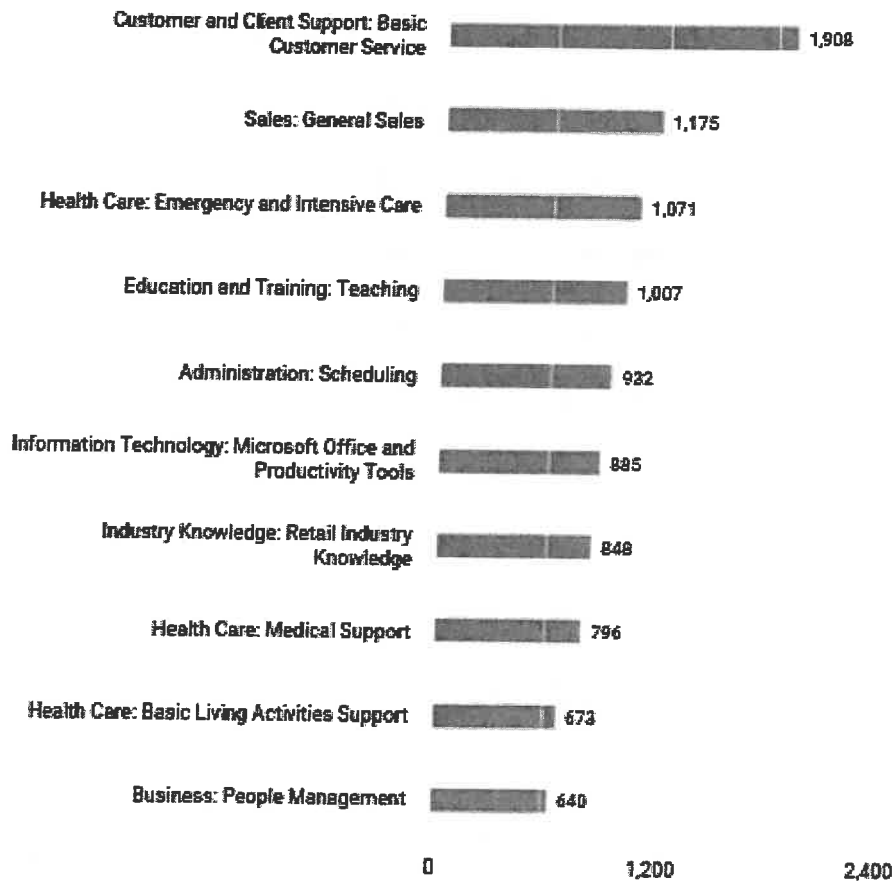
The need for communication/customer service skills crosses all the region's in-demand industries and occupations (the region's community college offers a Customer Service certificate program); healthcare/social services, hospitality, retail, construction and transportation/warehouse. Advanced academic education is required for the majority of in-demand occupation sin healthcare/social services while employers in hospitality, construction and transportation are needing vocational skills in culinary, the trades and equipment/mechanical repairs.

The following data provides the greatest in-demand knowledge and skills of employers in the Cape Cod region according to Burning Glass Technologies' Labor Insights/Jobs. Reports were run on January 18, 2019 for the past twelve months.

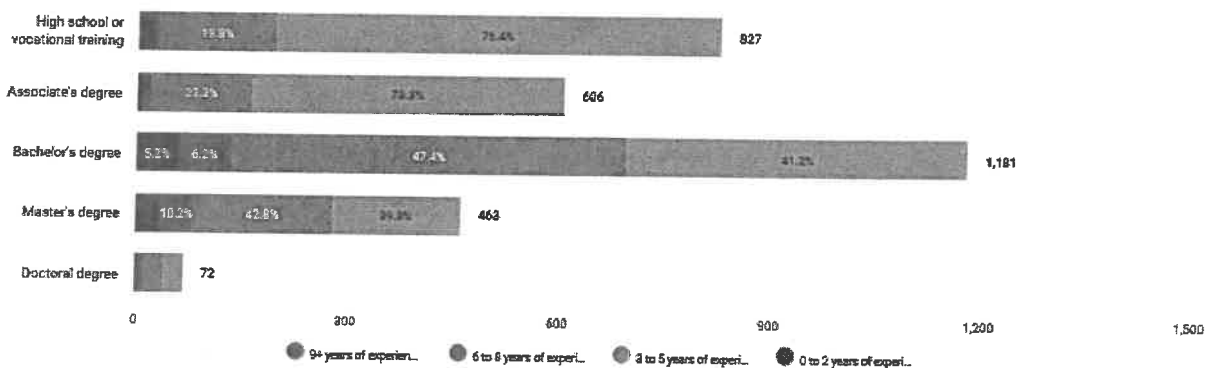
Most Requested Skills



Most Requested Skills Cluster

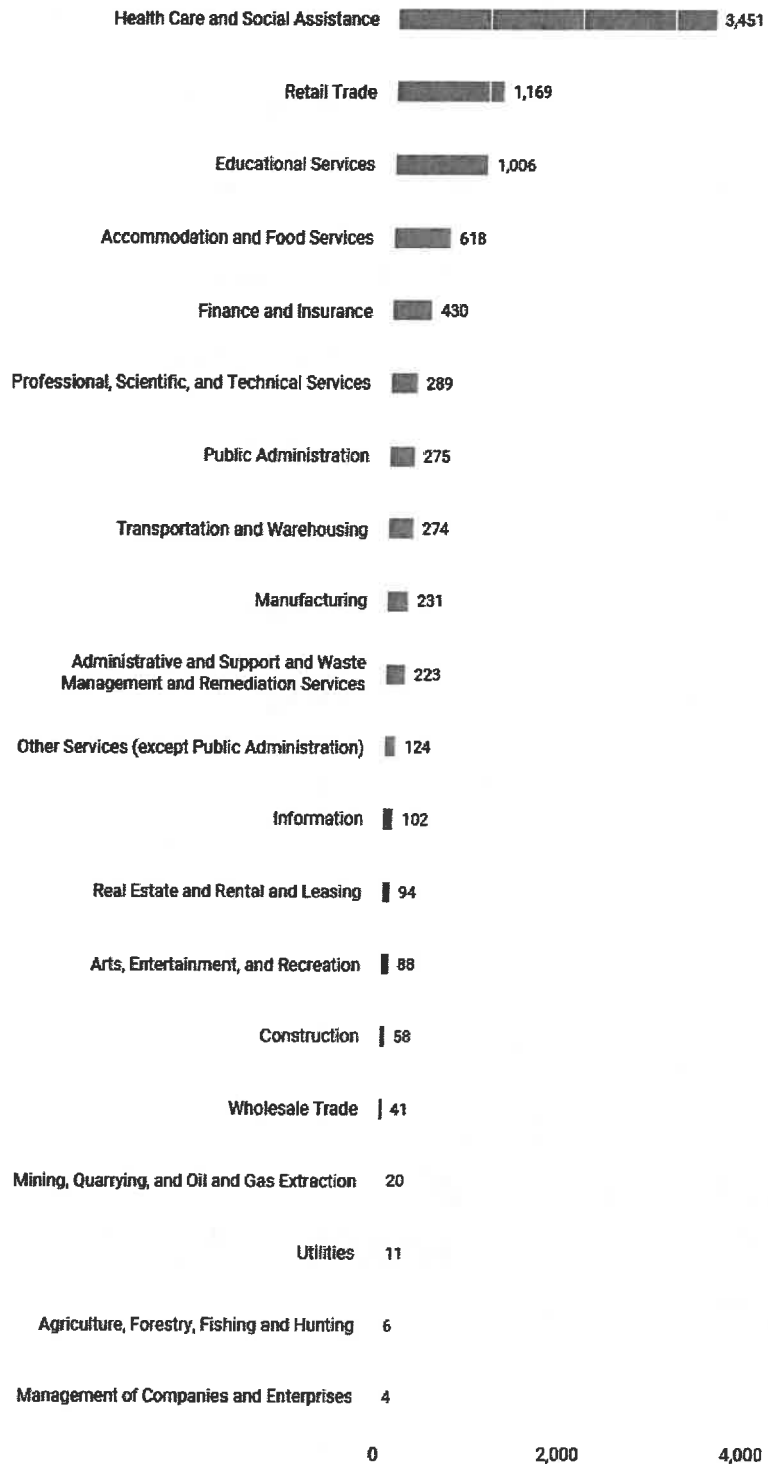


The following levels of education and levels of experience are requested

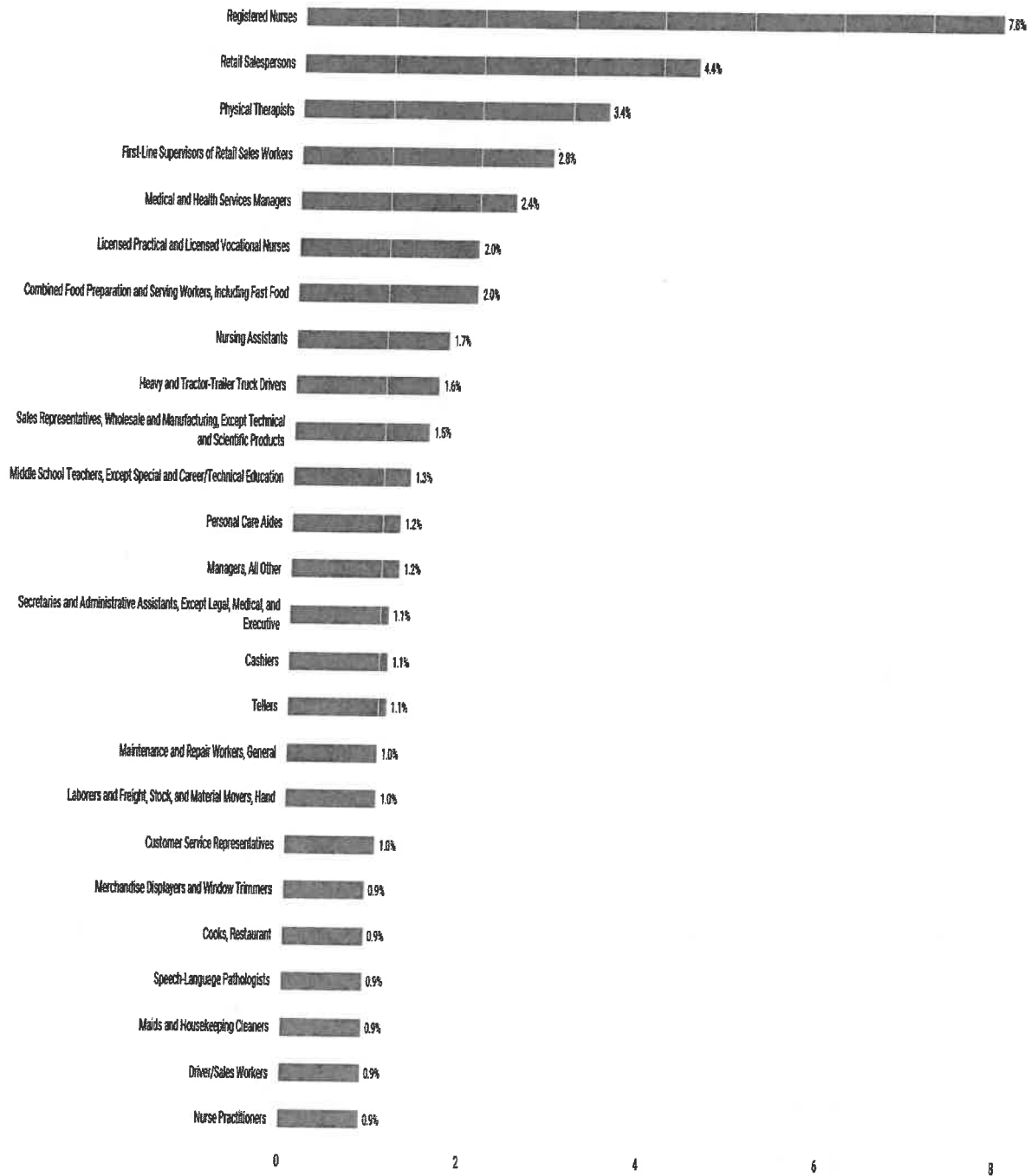


Currently, the in-demand jobs are in the following in-demand industries: Healthcare, retail, accommodation, transportation and construction industries. The long-term projection is for this trend to continue over the next four years.

In Demand Industries



In Demand Occupations



The fastest growing occupations in the in-demand industries for the region are as follows:

Fastest Growing Occupations in Cape & Islands WDA

Healthcare

Title	Employment 2016	Employment 2026	Change Level	Change Percent
Nurse Practitioners	168	213	45	26.79 %
Personal Care Aides	1,767	2,168	401	22.69 %
Veterinary Technologists and Technicians	172	208	36	20.93 %
Physical Therapist Assistants	134	161	27	20.15 %
Mental Health and Substance Abuse Social Workers	226	271	45	19.91 %
Mental Health Counselors	143	168	25	17.48 %
Physical Therapists	317	372	55	17.35 %
Medical Assistants	383	443	60	15.67 %
Healthcare Social Workers	114	130	16	14.04 %
Medical and Health Services Managers	456	518	62	13.60 %
Occupational Therapists	194	220	26	13.40 %
Licensed Practical and Licensed Vocational Nurses	607	688	81	13.34 %
Nursing Assistants	1,527	1,730	203	13.29 %
Medical Secretaries	515	574	59	11.46 %
Registered Nurses	2,473	2,756	283	11.44 %

Fastest Growing Occupations in Cape & Islands WDA

Hospitality

Title	Employment 2016	Employment 2026	Change Level	Change Percent
Combined Food Preparation and Serving Workers	1,804	2,094	290	16.08 %
Food Servers, Non-restaurant	362	408	46	12.71 %
Amusement and Recreation Attendants	208	230	22	10.58 %
Cooks, Restaurant	1,763	1,940	177	10.04 %
Cooks, Institution and Cafeteria	210	230	20	9.52 %
Chefs and Head Cooks	439	474	35	7.97 %
First Line Supervisors of Food Pre and Service Workers	1,330	1,441	111	8.35%
Food Service Managers	686	739	53	7.73 %
Dining Room and Cafeteria Attendants and Bartender Helpers	734	775	41	5.59 %
Food Preparation Workers	693	730	37	5.34 %
General and Operations Managers	3,189	3,354	165	5.17 %
Business Operations Specialists, All Other	176	185	9	5.11 %

Fastest Growing Occupations in Cape & Islands WDA

Retail

Title	Employment 2016	Employment 2026	Change Level	Change Percent
Market Research Analysts and Marketing Specialists	166	199	33	19.88 %
Sales Managers	246	269	23	9.35 %
Sales Representatives, Services, All Other	461	494	33	7.16 %

Construction

Carpenters	1,941	2,040	99	5.10%
Construction Laborers	1,064	1,132	68	6.39%
Maintenance and Repair Workers, General	967	1,067	40	4.14%
Operating Engineers and Other Construction Equipment Operators	481	511	30	6.24%
First-Line Supervisors of Construction Trades and Extraction	613	662	49	7.99%
Painters, Construction and Maintenance	448	449	1	0.22%
Construction Managers	416	446	30	7.21%

Fastest Growing Occupations in Cape & Islands WDA

Transportation

Bus Drivers, Transit and Intercity	222	253	31	13.96 %
Bus and Truck Mechanics and Diesel Engine Specialists	223	252	29	13.00 %
Light Truck or Delivery Services Drivers	914	996	82	8.97 %
Laborers and Freight, Stock, and Material Movers, Hand	919	1,001	82	8.92 %
Production, Planning, and Expediting Clerks	141	152	11	7.80 %
Automotive Body and Related Repairers	143	153	10	6.99 %
Bus Drivers, School or Special Client	318	339	21	6.60 %

(3) Provide an analysis of your regional workforce, including current labor force employment and unemployment data, information on labor market trends, and educational and skill levels of the workforce, including individuals with barriers to employment.

Due to a growing mature population, the median age for Cape Cod and the Islands is 52. An increasing number of mature workers comprise the labor force.

66% of those age 60-64 are participating in the labor force.

37% of those age 65-74 are participating in the labor force.

Cape & Islands Labor Force

Month	Year	Labor Force	Employed	Unemployed	Area Rate	Massachusetts Rate
November	2018	128,245	123,651	4,594	3.6	2.6
October	2018	132,723	128,729	3,994	3.0	2.9
September	2018	138,637	134,540	4,097	3.0	3.2
August	2018	152,101	147,649	4,452	2.9	3.5
July	2018	153,812	148,805	5,007	3.3	3.9
June	2018	144,797	139,537	5,260	3.6	3.9
May	2018	133,223	127,985	5,238	3.9	3.3
April	2018	125,895	119,922	5,973	4.7	3.3
March	2018	122,859	114,642	8,217	6.7	3.8
February	2018	121,578	112,505	9,073	7.5	4.0
January	2018	121,776	113,051	8,725	7.2	4.0
December	2017	122,325	116,405	5,920	4.8	3.1
November	2017	123,423	118,367	5,056	4.1	3.0

Employment

Labor force includes those in civilian labor force age 16 years and older. Included in this labor force are mature workers, ages 55-74, who comprise approximately 31% of the total labor force.

Unemployment rates on Cape Cod and Islands over previous 13 months has averaged 3.5%.

Barriers

Included in the labor force are approximately 4.86% with a disability.

In addition, among those in the labor force, approximately 2.16% are below the poverty level.

In addition, among those ages 18-24 in the labor force, 12% lack a high school diploma or equivalent.

Education

Among workers age 25 and older, 95% have a high school diploma or higher.

42% of this group have a bachelor's Degree or higher.

	Population 18 to 24 years
Less than high school graduate	12.60%
High school graduate (includes equivalency)	35.30%
Some college or associate's degree	35.50%
Bachelor's degree or higher	16.50%
	Population 25 years and over
9th to 12th grade, no diploma	2.90%
High school graduate (includes equivalency)	25.00%
Some college, no degree	19.70%
Associate's degree	9.10%
Bachelor's degree	23.90%
Graduate or professional degree	17.80%
Percent high school graduate or higher	95.60%
Percent bachelor's degree or higher	41.70%
	Population 25 to 34 years
High school graduate or higher	95.50%
Bachelor's degree or higher	95.50%
	Population 35 to 44 years
High school graduate or higher	95.20%
Bachelor's degree or higher	38.00%
	Population 45 to 64 years
High school graduate or higher	95.90%
Bachelor's degree or higher	41.50%
	Population 65 years and over
High school graduate or higher	95.30%
Bachelor's degree or higher	46.30%

(4) Provide an analysis of workforce development activities, including education and training, in the local area. This analysis must:

- a) Include strengths and weaknesses of workforce development activities**
- b) Address the capacity to provide the workforce development activities around:**
 - i. education and skill needs of the workforce;**
 - ii. individuals with barriers to employment;**
 - iii. employment needs of businesses.**

Strengths:

- Cape Cod Community College academic programs and its Center for Corporate Training and Professional Development continue to explore and develop curriculum in response to the region's in-demand industries and occupations.
- Bridgewater State University with its permanent mid-cape location, offers students who have earned credits at a previous institution a chance to earn a Bachelor's Degree in an accelerated, cohort-based program at night in Early Education, Communication Studies and Management and has entered into an agreement to facilitate the transfer of CCCC students. Labor force members can remain on cape and, if necessary, continue to work while going to school to acquire in-demand advanced degrees.
- The secondary schools provide vocational education and training for many of the in-demand occupations that are available to matriculating students as well as some to adult learners.
- While the vast majority of education and training occurs within the of secondary schools and the region's community college, there is a growing trend of workforce development activities offered by private employers; providing affordable and, in some cases, free skills training which could resonate well with the State's efforts to establish non-traditional sponsored apprenticeships.

Weaknesses:

- Cape Cod Community College is unable to provide all necessary courses at all times and this can delay the acquisition of certifications and degrees for those in the programs often times due to difficulty finding necessary instructors or lack of sufficient enrollment numbers for the program offered.
- The region relies on many off-cape training programs to provide more specialized skills and knowledge training (for example HVAC, CDL license); the distance, cost and transportation logistics for accessing this training become barriers for many in the area's labor workforce.
- Labor workforce in the outermost region of the cape and on the islands have very limited access to affordable training; likewise the labor force population of these areas is extremely

compromised due to the unavailability of housing for seasonal jobs and are subject to reduced employment opportunities in the area due to businesses closing in the off-season.

HEALTHCARE/SOCIAL SERVICES

Nurses

Upper Cape Cod Regional Technical School (UCT) offers a full-time day program that is scheduled over 40 weeks. UCT also offers a part-time evening program that is scheduled over 80 weeks. Program graduates are eligible to sit for the *National Council Licensure Exam for Practical Nurses (NCLEX-PN)* to obtain licensure as a Practical Nurse. The program prepares graduates for employment in a variety of health care settings including but not limited to Long Term Care, Acute Care, Rehabilitation, Health Care Centers/Offices, and Community Health Agencies. Graduates are also prepared for transfer to an Associate Degree Nursing program through transfer agreements with Cape Cod Community College, Bristol Community College, and Quincy College.

Cape Cod Community College offers a specific sequence of courses that lead to the Associate in Science Degree. Program graduates are eligible to sit for *National Council Licensure Examination for Registered Nurses (NCLEX)*. CCCC Nursing Program graduates become licensed as Registered Nurses upon successful completion of the NCLEX-RN. In addition, certification courses are offered for medical secretary, medical assistant, medical coding and billing.

Nursing Assistants

Royal Health Group CNA Training (offered by the employer)

Free Certified Nursing Assistant Training offered by the employer

Broadreach Healthcare/Liberty Commons CNA Training (offered by the employer)

A paid, tuition-free CNA course is offered. For newly-hired full-time CNAs who paid for a private CNA course in the last 3 years they will reimburse your paid tuition.

Cape Cod Community College Tri-level Nursing Assistant/Home Health Aide Program

A course designed to teach basic nursing skills and beginning interpersonal relationship techniques to entry-level students. Upon successful completion of the course, the student will be able to provide basic nursing care to patients of all ages under the direction and supervision of a registered nurse within Nursing Homes, Hospitals, Home Care.

Mental Health Counselors

Cape Cod Community College offers Associates Degree and certificate programs in Human Services, Substance Abuse Counselors

HOSPITALITY

Cape Cod Community College offers Associates Degree in Hospitality Management and certificates in culinary studies.

Upper Cape Vocational Technical High School offers several certificate programs in affiliation with the National Restaurant Association, American Culinary Federation Educational Foundation, Federation of Dining Room Professionals and Massachusetts Restaurant Association in addition to ServSafe certification.

CONSTRUCTION

Massachusetts Department of Education Training Resources and Internship Networks (TRAIN) Grant

In response to the region's construction sector's urgent need for laborers, tradesman, administrative support and project management staff, the Business Services Team worked with Cape Cod Community College (CCCC), Home Builders and Remodelers Association of Cape Cod (HBRCC), MassHire Cape and Islands Workforce Board, Department of Transitional Assistance, Barnstable County Department of Health to help conceptualize and draft a Massachusetts Department of Education Training Resources and Internship Networks (TRAIN) grant for a new a FREE Construction Training Program which will provide pre-apprenticeship training opportunity for unemployed, underemployed and individuals looking to transition into a new occupation and/or industry.

Stewart Painting Academy (offered by the employer)

A Painting "Bootcamp" program including classroom instruction, PDCA (Painting Decoration Contractors of America) standards, hands-on skills training. The modest course tuition is reimbursed for those who are hired by the company. All graduates of the program receive certificate of completion to present to other prospective employers.

Cape Cod Community College offers certificate programs in Architectural Computer Drafting, Construction Management and Construction Technology.

(5) Please describe your Board's strategic vision to support regional economic growth and economic self-sufficiency. This must include goals for preparing an educated and skilled workforce (including youth and individuals with barriers to employment), and goals relating to the performance accountability measures based on performance indicators described in §677.155(a)(1). The primary indicators of performance include:

- a) The percentage of participants who are in unsubsidized employment during the second quarter after exit from the program;**
- b) The percentage of participants who are in unsubsidized employment during the fourth quarter after exit from the program;**
- c) Median earnings of participants who are in unsubsidized employment during the second quarter after exit from the program;**
- d) The percentage of those participants enrolled in an education or training program (excluding those in on-the-job training (OJT) and customized training) who attained a recognized postsecondary credential or a secondary school diploma, or its recognized equivalent, during participation in or within 1 year after exit from the program.**

The MassHire Cape and Islands strategic vision is contained in the MassHire Cape and Islands Workforce Board's Action Plan (Attachment B). The MassHire Cape and Islands performance accountability measures are based on the goals established by the State in the annual plan. The numerical goals for FY2019 and FY2020 are included as Attachment C.

(6) Taking into account analyses described in 1 through 4 above, what is your region's strategy to work with the entities that carry out the core programs and required partners to align resources available to the local area, to achieve the strategic vision and goals described in paragraph (a)(5) of this section.

The MassHire Cape and Islands Workforce Board's strategy is outlined in the MassHire Cape and Islands Workforce Board Action Plan (Attachment B) and the memorandum of understanding between the partners (Attachment D).

(b) Under WIOA, the plan must include a description of the following requirements (WIOA secs. 108(b)(2)-(21)):

(1) Identify the following elements of the workforce development system in your local area:

(i) Programs that are included in your local workforce system (please list programs)

- Wagner Peyser
- WIOA Title I Adult & Dislocated Worker
- WIOA Title I Youth
- Veterans Programs
- Reemployment Services and Eligibility Assessment (RESEA)
- Trade
- Rapid Response
- Apprenticeship Initiative in Manufacturing sector
- Unemployment Insurance Assistance
- Core Partner/MOU services – DTA, MCB, MRC, SCSEP
- Connecting Activities – School to Career
- YouthWorks – Summer Program
- Cape Cod STEM Network

(ii) How your Board will support the strategy identified in the State Plan and work with the entities carrying out core programs and other workforce development programs, including programs of study authorized under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) to support service alignment;

The CIWB will support the strategy identified and outlined in the State Plan as well as collaborate with all entities that assist in delivering core programs and other workforce programs within the region in the following ways:

- CIWB will continue to convene bi-monthly Board meetings as well as subcommittee meetings. These subcommittees are made up of a variety of stakeholders within the region representing industry, academic and non-profit partners. Subcommittees include: Executive Board, WIOA Committee, 55 Plus Committee, Human Resource Committee, WorkSmart Committee, Youth Committee, Executive Youth Council, School to Career, and ArtWorks Advisory Board.
- CIWB will continue to offer oversight and integration of the WIOA youth programs including Connecting Activities and YouthWorks. CIWB has developed strong relationships with our regions academic partners, which has proven to be beneficial in supporting the region's Perkins authorized programs.
- CIWB will continue to monitor the goals, partnerships, and mission developed with the Regional Blueprint and Strategic Plan.

(2) Please describe how your Board will work with entities carrying out core programs to:

(i) Expand access to employment, training, education, and supportive services for eligible individuals, particularly eligible individuals with barriers to employment;

The CIWB has recently begun collaborating on two endeavors which will promote employment within key industry sectors. The TRAIN grant (Training Resources and Internship Network) was recently awarded to Cape Cod Community College, for the purpose of implementing a training programs and providing employer sponsored internships for long- term unemployed workers. In our region this grant was a collaboration of several vital stakeholders including: MassHire-Career Opportunities, DTA, Home Builders & Remodeler's Association, and Housing Assistance Corporation. The CIWB, recently partnered Mashpee High School on an Innovation Grant. Innovation Pathways are designed to connect student learning to an industry sector which is in demand regionally. Students participate in a 100- hour internship, which will assist in preparing the student for postsecondary education, training, and/or employment. Nantucket High School, was awarded an Innovation Pathway grant last year.

(ii) Facilitate the development of career pathways and co-enrollment, as appropriate, in core programs; and

The CIWB continually seeks ways in which to partner with our stakeholders within the region, including those within the workforce development system to secure specific grant funding and initiatives. That would assist in serving CIWB's target populations including those with barriers to employment. Under the guidance of our WIOA Committee we are able to seek further guidance and ideas on ways in which we can regionally best assist individuals who have the greatest barriers to employment.

(iii) Improve access to activities leading to a recognized postsecondary credential (including a credential that is an industry-recognized certificate or certification, portable, and stackable);

The CIWB will continue and develop workforce development initiatives that provide industry recognized credentials preferably within a demand driven occupation. We will collaborate with our partners at the MassHire-Opportunities, Cape Cod Community College, Upper Cape Cod Regional High School and Cape Cod Technical High School to explore opportunities within the region that would be appropriate for postsecondary customers. We will also explore grant opportunities through state partners such as Commonwealth Corporation.

(3) Please describe the strategies and services that will be used in your local area:

(i) To facilitate engagement of businesses in workforce development programs, including small businesses and businesses in in-demand industry sectors and occupations;

- Attend multiple monthly Business Networking Events hosted by the fifteen local chambers of commerce to broaden their affiliations with small business owners and area business leaders; each event is an opportunity to share information about the MassHire Cape and Islands Career Center programs, Bizworks, training funding and Veteran hiring incentives
- Provide LMI and workforce development resources at area industry specific events hosted Home Builders & Remodelers Association of Cape Cod Cape Cod Tech Council and
- Conduct workshops for small businesses through local agencies such as Community Development Partnership of the Lower Cape
- Meet one-on-one with HR managers and business owners to gain better understanding of hiring needs, provide pertinent information that will assist them with their hiring decisions including LMI, pay scales and interviewing best practices for identifying candidates who are a good fit

(ii) To serve agricultural businesses and how you intend to improve those services;

- Agriculture is not a priority industry sector in the region. The Cape Cod & Islands Farm Bureau is a grassroots organization with the support of approximately 700 members and associates. These are primarily small, independent, family owned enterprises that have not indicated a need to access workforce development resources.
- The Cape Cod Chamber is spearheading a Blue Economy initiative that aims to attract and expand aquaculture industries in the region. Business Services Team members are connected to the key players and will be able to contribute to workforce development strategies as they arise.

(iii) To support a local workforce development system that meets the needs of businesses in your area;

The MassHire Cape and Islands Career Center Business Services Team:

- Conducts demand-driven industry sector specific pre-screened recruitment events utilizing Crystal Reports to identify prospective job seekers, conduct in-person preliminary interviews and present best, vetted candidates to employers.
- Hosts and aggressively promote hiring events for employers throughout the year.

- Presents multiple Mature Worker job fairs throughout the region featuring mature “friendly” employers interested in hiring older workers. The BSR Team also conducts Mature Worker “Hire Me Bootcamps” prior to the job fairs to better prepare jobseekers for the hiring events.
- Provides webinars through the MassHire Cape and Islands Career Center Website for employers on the benefits of hiring mature workers.
- Provides webinars through the MassHire Cape and Islands Career Center Website for employers about the OJT program.

(iv) To better coordinate workforce development programs and economic development;

The CIWB has been a leader for both workforce development and economic development within the region. With the implementation of Regional Blueprint, we have created a team who also shares our mission, which is the continued health of the Cape & Islands economy. This team will be working collaboratively to ensure that systems are in place to capture data from the State as well as partner resources.

The CIWB has developed partnerships across the region with municipalities, academic partners and industry partners who often call upon the CWB to assist in promoting workforce development activities or be active in a committee. The CIWB has been able to serve to serve in an advisory capacity in several occasions providing oversight and expertise.

(v) To strengthen linkages between the Career Center delivery system and unemployment insurance programs;

Unemployment Insurance staff are located within the MassHire Cape & Islands Career Center. They are available to assist job seekers with services and programs, including the RESEA Program.

a. What methods are used by the Board to identify and recruit business intermediaries

The CIWDB and MassHire CICC work in tandem to develop partnerships with Chambers of Commerce, business associations, trade associations especially in in-demand industries. Business Services Team members serve on the Board of Directors of the Cape Cod Human Resources Association and Canal Region Chamber of Commerce allowing the facilitation of dialogues with small, mid and large employers in identifying and responding to workforce development needs.

The CIWB has a strong partnership with the Cape Cod Chamber of Commerce, as they are also a member of our Board. We collaborate on many activities together, such as WaterWORKS, which was an event for high school students exposing them to the Blue Economy. Additionally, we have developed relationships with many of the smaller chambers across the region, as they have been vital

partners to the success of our School to Career program. The Home Builders & Remodeler's Association of Cape Cod, is another association in which we enjoy a strong collaborative relationship with. We co-host Residential Construction Career Day, which has become a premier event for high school students on Cape Cod for students in grades 9-12.

b. Specifically, what procedures are in place to offer Career Center Business Services and Mass BizWorks programs to local businesses

- Operations Manager and Business Services Manager coordinate efforts to work with Rapid Response team and assist businesses and workers with lay-off aversion and re-employment efforts.
- Business Services Team members attend Career Center Seminars and present information on job development resources available and perform RESEA Reviews and intakes for DLW interested in individualized services.
- Business Services Team members incorporate BizWorks materials in employer meetings.
- Employers receive via email bi-monthly "Talent Alerts" featuring highly qualified job seekers as potential candidate for open positions they may have.

(vi) That may include the implementation of initiatives such as incumbent worker training programs, on-the-job training programs, customized training programs, industry and sector strategies, career pathways initiatives, utilization of effective business intermediaries, and other business services and strategies designed to meet the needs of regional businesses. These initiatives must support the strategy described in paragraph (b)(3) of this section;

With representation of the career center on multiple boards, including the Board and the Executive Board, we are ensured that the business services and Mass BizWorks programs are being made available regionally. Members of the CIWB and the career center work collaboratively if needed, and will visit an employer together. The career center staff has also participated in events at local high schools; such as career fairs, mock interview events and presentations. We have had Mass BizWorks representatives attend our Board meeting.

CIWB in conjunction with the management team at the career center work collaboratively with employer partners to establish their needs. Collectively, we have strong knowledge in an array of programs including but not limited to incumbent worker training programs, on-the-job training, customized training, and career pathways training. We will often work with Cape Cod Community College twice a year in hosting the Workforce Training Fund info sessions, which is training for incumbent for workers.

(4) Please provide an examination of how your Board will:

Coordinate local workforce investment activities with regional economic development activities that are carried out in the local area

To ensure that local workforce investment activities are being coordinated with the economic development activities within the region, the CIWB will convene meetings with both its Board of Directors, Executive team and Work Smart committee to ensure that the economic vitality of the region is continually being reviewed and issues addressed in a timely manner. These committees will also pay particular attention to the Cape & Islands Regional Blueprint to ensure business growth continues within the region.

Promote entrepreneurial skills training and microenterprise services;

At this time entrepreneurial training has not been a priority within the region. At one time, representatives from SCORE offered a workshop however due to lack of interest the career center has not done so within the past year.

(5) Please describe the Career Center system in your area, including:

(i) How your Board will ensure the continuous improvement of eligible providers through the system and that such providers will meet the employment needs of local businesses, workers and job seekers;

The MassHire Cape and Islands Workforce Board has established performance requirements for eligible providers to be approved to provide services to ITA customers. The requirements are 80% completion rate, 70% entered employment rate, and \$12.00 wage. The Board reviews and adjusts these rates periodically.

(ii) How your Board will facilitate access to services provided through the Career Center system, including in remote areas, through the use of technology and other means;

The MassHire Cape and Islands Career Center outstations staff throughout the service area to provide services on a scheduled basis when it is cost effective and feasible. The Career Center is placing five (5) workshops that are available to all Career Center members on our website so that they can be accessed at any time and from any location with internet access.

(iii) How entities within the Career Center system, including Career Center operators and partners, will comply with WIOA sec. 188, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) regarding the physical and programmatic accessibility of facilities, programs, and services, technology, and materials for individuals with disabilities, including providing staff training and support for addressing the needs of individuals with disabilities;

The Career Center is ADA compliant, and has worked with the Mass Commission for the Blind (MCB) and the Massachusetts Rehabilitation Commission (MRC) to obtain the necessary items and computer programs to ensure that individuals are able to fully access the Career Center services.

Career Center staff have participated in training activities provided by MCB and MRC staff.

(iv) The roles and resource contributions of your partners – how are these relationships sustained and kept productive;

The Partners meet on a quarterly basis (more frequently if needed).

(6) Please provide a description and assessment of the type and availability of adult and dislocated worker employment and training activities in your local area.

Adult and dislocated worker employment and training services in the Cape and Islands region include:

Basic Services

- Outreach and orientation
- Initial Assessments that include: Test of Adult Basic Education and Career Scope
- Job Search Assistance and self-directed job search in the Resource Room
- Access to hiring events and LMI
- Intake and eligibility in order to pursue Individualized Services

Individualized Services

- Individualized career planning and counseling
- Development of an individualized career plan that outlines tasks and goals
- Implementation of the individualized career plan
- Identification of barriers to employment and the need to address and resolve these barriers
- Hi-Set Preparation classes for those needing to complete their secondary school education
- Computer Literacy classes that prepare the job seeker to re-enter the world of work with full knowledge of the Microsoft Office Suite with a focus on WORD and EXCEL
- Resume development and resume critique
- Referral to training
- Referral to Business Services for one on one job development and placement.

Training Services

- Occupational skills training in career fields where there are jobs on Cape Cod and the Islands
- On the job training opportunities
- Apprenticeships in conjunction with local area employers
- Incumbent worker training and customized training if needed

Follow-up Services

As required under WIOA all Adult and Dislocated Workers receive 12 month of follow-up services which include but are not limited to: additional career planning and counseling, assistance with job search if job seeker becomes unemployed again, referrals to local community organizations for assistance, information about additional education or training needed to remain employed etc.

(7) Describe how your Board will coordinate workforce investment activities carried out in the local area with statewide rapid response activities

The CIWB will maintain regular contact with the state Rapid Response representative. The Business Service Team also maintains contact with Rapid Response, and is aware of pending layoffs within the region. The career center staff will often work in partnership with the rapid response team when addressing the needs of laid-off workers.

(8) Please provide a description and assessment of the type and availability of youth workforce investment activities in your area including activities for youth who are individuals with disabilities, which must include an identification of successful models of such activities.

The Cape and Islands Workforce Board's Youth Workforce Activities include the OSY youth activities at the career center, YouthWorks activities for youth who reside in the town of Barnstable which is facilitated at the career center, and School to Career Activities that are overseen and facilitated by the local workforce board.

WIOA Youth activities for Out of School Youth takes place at the Career Center. Youth must meet the eligibility guidelines provided by the state in order to participate in the program.

Program activities for the Out of School Youth Program include all 14 elements required under WIOA. Elements are presented to out of school youth based on the individual need of the youth. Youth in the Out of School Youth Program are ages 16 to 24 and all have barriers to employment. Most youth have been identified as high school drop outs (79%) and disabled (51%) and are working to attain their Hi-Set credential. Youth engage in Hi-Set preparation and that is coupled with work experience. Once the Hi-Set credential is achieved, youth may go onto occupational skills training, paid internships, On the job training, work experience and job placement. Career guidance and support is provided to guide and support the youth by identifying career goals and steps needed to move forward in a career.

For out of school youth who are not in need of a Hi-Set credential, the following activities include but are not limited to:

- Work experience or an internship coupled with education
- Occupational Skills Training
- Job Development and Job Placement

All out of school youth activities facilitated at the career center are appropriate for youth who have disabilities.

During the summer months, youth ages 14 to 21 who reside in the Town of Barnstable and have barriers to employment are welcome to participate in the YouthWorks Program. This program provides employability skills classes and work experience to youth participants. Youth are paid for both activities.

- a. Please also provide a description of youth workforce investment activity coordination with the Department of Transitional Assistance, Massachusetts Rehabilitation Commission, and Massachusetts Commission for the Blind.**

As required partners under WIOA, DTA, MRC and MCB are engaged with the Cape and Islands Workforce Board in the MOU process and coordination with youth services as needed. Out of School Youth are consistently referred to the career center for services.

The career center has a referral process in place with these 3 agencies. MCB and MRC send referrals for services to the career center manager who distributes these referrals to the appropriate staff person for follow up. DTA staff is present at the career center on Mondays from 1PM to 4PM and Fridays from 9AM to 1PM. Career center staff attend the DTA orientations on Tuesdays at 10AM and Thursdays at 1PM.

(9) Please explain how your Local Board will coordinate relevant secondary and postsecondary education programs and activities with education and workforce investment activities to coordinate strategies, enhance services, and avoid duplication of services.

The CIWB has strengthened the regions workforce development activities and secondary/postsecondary education programs. This is evident through the Innovation Pathway grants that both Nantucket High School and Mashpee High School have been awarded. Each of these schools saw the value in linking their students with a meaningful career within a high demand industry. The CIWB will continue to navigate grant opportunities with a focus not only within the high demand industries, but also the STEM industries. We have had demonstrated success within the STEM field, and as we move forward with the Cape & Islands Maker Faire, the linkages that are formed between the academic, industry and community college will continue to provide additional resources for our students. Additionally, we will continue to work on the following:

- As part of the Regional Blueprint, the CIWB will continue to work with educators on the team to address goals and objectives.
- Continue to support local school districts and execute the new STEM plan, which is part of the Connecting Activities grant.
- Continue to look for additional funding opportunities that would promote the activities within our region, and provided the expansion of existing programs.

(10) How will your Board coordinate WIOA Title I workforce investment activities with the provision of transportation and other appropriate supportive services in the local area? Please also describe how other programs and services in your local area are leveraged to compliant workforce investment activities.

The Career Center has a Support Services and Needs Based Payment Policy that provides for funds to assist WIOA customers who meet the eligibility requirements with the cost of transportation to training activities. Career Consultants will assist WIOA customers with accessing transportation and other support services as needed.

(11) What plans, assurances and strategies do you have in place for maximizing coordination, improving service delivery, and avoiding duplication of Wagner-Peyser Act (29 U.S.C. 49 et seq.) services and other services provided through the Career Center delivery system?

The MassHire Cape and Islands Career Center Operator (Job Training & Employment Corporation) is the lead operator in the Career Center and is responsible, along with the management team, for maximizing coordination, improving service delivery, and avoiding duplication of services provided through the Career Center.

(12) How will career and training services, required under WIOA, be provided to Migrant Seasonal Farm Workers (MSFWs) through the Career Center(s)?

MSFW signage, which outlines the services available, is posted at point of entry in the career center to encourage self-identification. This information is also included in the Career center Seminar (CCS).

MSFW customers are primarily identified through registration into JobQuest while becoming career center members.

Any identified MSFW will be provided career and training services as required by WIOA in accordance with the service delivery process given to all career center customers.

(13) How will the Board coordinate WIOA Title I workforce investment activities with adult education and literacy activities under WIOA Title II? This description must include how the Board will carry out the review of local applications submitted under Title II consistent with WIOA secs. 108(d)(11)(A) and (B)(i) and WIOA sect 232:

Each eligible provider desiring a grant or contract from an eligible agency shall submit an application to the eligible agency containing such information and assurances as the eligible agency may require, including a description of –

- i. of how funds awarded under this title will be spent consistent with the requirements of this title;
- ii. any cooperative arrangements the eligible provider has with other agencies, institutions, or organizations for the delivery of adult education and literacy activities;
- iii. how the eligible provider will provide services in alignment with the local plan under section 108, including how such provider will promote concurrent enrollment in programs and activities under Title I, as appropriate;
- iv. how the eligible provider will meet the State adjusted levels of performance described in section 116(b)(3), including how such provider will collect data to report on such performance indicators;
- v. how the eligible provider will fulfill Career Center partner responsibilities as described in section 121(b)(1)(A), as appropriate;
- vi. how the eligible provider will provide services in a manner that meets the needs of eligible individuals; and
- vii. information that addresses the considerations described under section 231(e), as applicable.

The Cape and Islands Workforce Board has an MOU in place with the WIOA Title II entity in the region which is the Hyannis Education Center of Cape Cod Community College.

The Career Center has a referral process in place with the Hyannis Education Center of Cape Cod Community College where referrals are made to the career center for job search assistance and referrals are made to the WIOA Title II entity for adult education and literacy activities as needed. This required partner under WIOA is present at the career center 9-12 hours per week. The Hyannis Education Center advisor meets with students

at the career center to introduce him/her to the services available for job search assistance and job placement. For those students that are interested in more individualized services an intake is completed and the career counselor and the advisor work together to assist the student in pursuing occupational training/job search assistance and job placement.

The WB will coordinate WIOA Title I workforce investment activities with adult education and literacy activities under WIOA Title II by:

- WB staff will review adult education proposals as part of the funding review team
- WB will coordinate workforce investment activities with adult education and literacy activities through the MOU with partner agencies.

(14) Provide copies of executed cooperative agreements, MOUs, ISAs, or other agreements between required partners which define how all local service providers, including additional providers, will carry out the requirements for integration of and access to the entire set of services available in your local Career Center delivery system. This includes cooperative agreements (as defined in WIOA sec. 107(d)(11)) between the Board or other local entities describe in WIOA sec. 101(a)(11)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(11)(B)) and the local office of a designated State agency or designated State unit administering programs carried out under Title I of the Rehabilitation Act (29 U.S.C. 720 et seq.) (other than sec. 112 or part C of that title (29 U.S.C. 732, 741) and subject to sec.121(f)) in accordance with sec. 101(a)(11) of the Rehabilitation Act (29 U.S.C. 721(a)(11) with respect to efforts that will enhance the provision of services to individuals with disabilities and to other individuals, such as cross training of staff, technical assistance, use and sharing of information, cooperative efforts with businesses, and other efforts at cooperation, collaboration, and coordination.

Describe how the Local Board/Career Center intends to build upon/increase collaboration with existing partners and in establishing new partnerships with local service providers (including any approximate timelines for establishing agreements or building upon existing agreements). *(Note: There is a statewide collaborative agreement in place between DCS and the New England Farm Worker's Council (NEFWC), the WIOA Sec. 167 Grantee. A copy of the agreement will be included as part of the consolidated State Plan).*

The MOU is Attachment D. The WB will build upon the MOU through MOU meetings and Career Center Committee meetings to increase collaboration and increase local partners.

(15) Please provide the name and contact information of your Fiscal Agent.

Fiscal Agent Name: Job Training & Employment Corporation
Contact Person: Kristina E. Dower, President
Address: 88 North Street, Hyannis, MA 02601
Telephone: 508-862-6160
Email: jtecked@aol.com

summer months. Youth must be residents of the Town of Barnstable and are ages 14 to 21 with barriers to employment such as being low income, child of a single parent or disabled. YouthWorks participants are primarily 14 and 15-year-old who have little to no work experience and are unable to attain summer employment.

- e) Transitional jobs (\$680.190 – one that provides a time-limited work experience, that is wage-paid and subsidized, and is in the public, private, or non-profit sectors for those individuals with barriers to employment who are chronically unemployed or have inconsistent work history, as determined by the Local Board. These jobs are designed to enable an individual to establish a work history, demonstrate work success in an employee-employer relationship, and develop the skills that lead to unsubsidized employment).**

The Cape and Islands Workforce Board does not currently have a transitional jobs program. If needed, the Board will evaluate the need for a transitional jobs program in the region.

- f) Online remediation tools (such as WorkKeys Curriculum) for OJT/apprenticeship screening in support of cultivating and demonstrating workplace competencies.**

- (i) Does the local area utilize the National Career Readiness Curriculum (NCRC) to measure job seekers work ethic and discipline, basic skills abilities, and job-ready qualifications?**

The Cape and Islands Workforce Board does not utilize the Work Keys Curriculum or Career Ready 101. The career center uses AZTEC Learning System for online remediation, the Workplace Excellence Series for workplace competencies attainment, and the IBM Kenexa Skills Assessments online is used for OJT/Apprenticeship screenings.

(21) Please describe the process used by your Board, consistent with WIOA sec. 108(d), to provide up to a 30-day public comment period prior to submission of the plan, including an opportunity to have input into the development of your local plan, particularly for representatives of businesses, education, and labor organizations.

- a) make available copies of a proposed local plan to the public through electronic and other means, such as public hearings and local news media;**
- b) allow members of the public to submit comments, not later than the end of the 30-day period beginning on the date on which the proposed local plan is made available;**
- c) include with the local plan submitted to the Governor, any such comments that represent disagreement with the plan**

The MassHire Cape and Islands Workforce Board will post the plan on its website for thirty (30) days and request comments from the public. Any comments that represent disagreement with the plan will be submitted to the Governor.

(22) Describe how your Career Centers are implementing and transitioning to an integrated, technology-enabled intake and case management information system for programs carried out under WIOA and by system partners.

The MassHire Cape and Islands Career Center currently uses the MOSES system for intake and case management. The WB is working with partner agencies to create information release forms that will allow information sharing on shared customers across the workforce development system and its partners. The WB and its partners will support the state-level efforts to develop a shared intake and case management system across partner agencies.

(23) What is the direction given by the Governor and your local Board to the career center operator to ensure priority for adult career and training services will be given to recipients of public assistance, other low income individuals, and individuals who are basic skills deficient consistent with WIOA sec. 134(c)(3)(E) and §680.600 –

POS for Veterans: <https://www.mass.gov/service-details/priority-of-service-for-veterans>

State Plan: <https://www.mass.gov/files/documents/2018/02/09/ma-wioa-state-plan-final-4-7-16.pdf>

Please describe the local board's policy and process related to Priority of Service for adult career and training services for recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient (100 DCS 08-116).

The WB's policy is to require priority of service for recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient.

(24) Please describe the local policy and process that ensures priority for adult career and training services is given to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient consistent with WIOA sec. 134(c)(3)(E), §680.600 and 100 DCS 18.101.1 (*Attachment C*) in the absence of a priority of services policy.

- **Veterans and eligible spouses**

Signage is posted at the point of entry encouraging veterans to self-identify. Priority of Service information is also included in the Career center Seminar (CCS).

Eligible veterans and eligible spouses are given priority over non-covered persons for the receipt of employment, training and placement services. Eligible veterans and eligible spouses receive access to services before, or in the case of limited resources, instead of non-covered persons for all employment and training services.

- **Recipients of public assistance**
Recipients of public assistance receive priority for training funds.
- **Other low-income individuals**
Other low-income individuals also receive priority for training funds.
- **Individuals who are basic skills deficient**
There is no local policy in place. However, the MassHire Cape and Islands Workforce Board and the career center follow the state of Massachusetts guidance on ensuring priority for adult career and training services for recipients of public assistance, other low-income individuals and individuals who are basic skills deficient.

The Local Board may establish a process that also gives priority to other individuals eligible to receive such services outside the groups given priority under WIOA, provided that it is consistent with the priority of service for Veterans. Please note the local policy and process must be consistent with WIOA sec. 134(c)(3)(E) and §680.600 in the absence of a priority of service policy.

(c) Your local plan must include any additional information required by the Governor.

There is no additional information required by the Governor at this time.

(d) Your local plan must identify the portions that the Governor has designated as appropriate for common response in the regional plan where there is a shared regional responsibility, as permitted by 679.540(b): The Governor may issue regional planning guidance that allows Local Boards and chief elected officials in a planning region to address any local plan requirements through the regional plan where there is a shared regional responsibility. Incorporate anything from your Regional Plan content as appropriate.

The Cape and Islands is its own region.

(e) Comments submitted during the public comment period that represent disagreement with the plan are required to be included with your local plan.

Any comments received will be submitted.

Cape and Islands Workforce Investment Board Action Plan

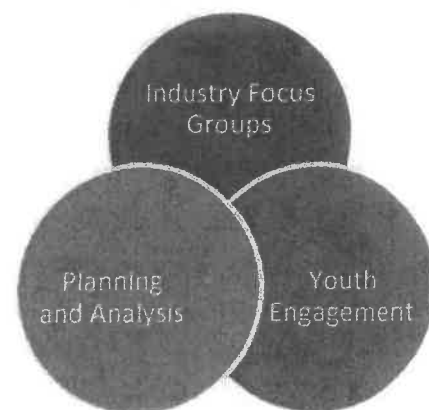
Category A: Strategic Plan

Category A Main Goal 1: *With Board members engaged, clarify strategic priorities implemented by the Board that target critical sectors and key labor market issues for the region identified by the Board. These priorities should be inclusive of special populations including youth, older workers, and seasonal workers.*

Category A Main Goal 2: *Develop and submit new strategic plan after 2010 and beyond. Submit a revised strategic plan that clarifies goals/ activities/ results based on priority sectors and key labor market issues identified by the Board taking current strategic plan “to the next level” of work for the region. Ensure that strategic priorities and resulting activities within the Strategic Plan address critical sectors/occupations identified by Board, use employer input mechanisms to craft and prioritize goals/strategies, embed roles for stakeholders, and Operate through “collaborations” between Board, industry, education and other key stakeholders to drive implementation of strategies to address labor market needs.*

Process: The CIWIB Board convened its Leadership Group in November 2010 to design a process by which the Board could clarify strategic priorities and address the needs of both critical sectors and special populations that are identified in the Plan. This process included the following:

- **Focus Groups:** Members from numerous sectors (health care, construction, arts and culture, retail, hospitality, and professional services) participated in focus groups in which they jointly reviewed current LMI and talk about what it means for their industries and individual businesses’ future workforce needs. They were asked questions to determine what kind of workers and skills they need to grow their businesses and what hiring they expect to do in coming year.
- **Youth Engagement:** The youth council were convened or a strategic planning session.
- **Rigorous Analysis and Planning:** Quantitative and qualitative data was brought back to the Board to do data analysis and planning based on the LMI and the input from partners, employers, and the youth council. Skills needed and skills gaps were determined through Board and non-Board regional employers reviewing and analyzing our 2010 LMI document, *The Workforce Development Policy Blueprint*, offering updates as well as



individual perspectives on that data, and providing a more comprehensive picture as a result.

- The Board carefully considered strategies to prepare area residents for the emerging labor market areas identified within *The Workforce Development Policy Blueprint*, with a focus on key workforce populations including at-risk youth, dislocated workers, and older workers. (The strategies for engaging these special populations are included in the strategy maps. Appendices B-F)
- One unique feature of our economy is our need for 17,000 seasonal workers. The WIB works closely with businesses to identify and select appropriate strategies for meeting these needs.

As a result, Board members clarified their strategic priorities across sectors and within each of five critical sectors (health care, construction, technology and professional services, hospitality, and marine sciences/technology).

Cross sector goals:

- ✓ Ensure that Cape and Islands employers have mechanisms for sharing real time data on emerging workforce needs and have input into regional strategies to meet those needs.
- ✓ Communicate progress back to employers on strategies we've used and projects we've implemented together, modifying workforce initiatives when indicated by the data; and
- ✓ Provide a forum to work together to support activities which build the year-round economy on Cape Cod, especially in the area of workforce development

Progress on Cross-Sector Goals:

- ✓ **Cape Cod Chamber of Commerce:** The Executive Director of the Cape and Islands WIB is an active member of the Board of Directors of the Cape Cod Chamber of Commerce. Two current activities developed as a result of the relationship between the WIB and the Chamber: 1) the convening of a Retail Council. This council provides valuable insight into this critical component of the regional economy, and 2) the WIB Director chaired a subcommittee in the recent CEDS Planning Process. The result of that planning process was the establishment and support for the Entrepreneurs' Resource System which provides capital and technical assistance to budding entrepreneurs. The Chamber has 1,400 business members who will continue to work in committees and in partnership with the WIB on planning and executing new initiatives. In addition, the WIB director is on the Chamber's strategic planning committee creating synergy between WIB and Chamber activities.
(<http://www.capecodcommission.org/econdevel/CEDS/>) resulting in the current focus on providing capital and technical assistance to entrepreneurs.

- ✓ **Regular Communication:** Four hundred opt-in business and training partners receive our weekly e-newsletter, and often respond to online surveys through embedded links in those newsletters.
- ✓ **Planning Partnerships:** New planning partnerships in retail, health care, hospitality and technology that engage employers and training partners in dialogue about changes and trends in business which will affect workforce development needs. These partnerships have designed the activities in the strategic plan and will oversee implementation.
- ✓ **Development of strategy maps:** Strategy maps have been developed (Appendices B-F)

Sector-specific collaborative goals:

- ✓ **Health Care:** Provide training in partnership with CCCC and other public and private health care providers in areas with critical vacancies; place graduates of programs into jobs at employer partners facilities.
- ✓ **Construction:** Work with construction companies to support expansion and growth through provision of training and placement in office/administrative support positions.
- ✓ **Technology and Professional Services:** The majority of our local employers in this sector work in high-tech. They articulated a need to build the area's workforce skills in computer related technologies, and jointly set goals to a) work with CCCC to update offerings in technical areas, b) work with employer partnerships to create and support professional development opportunities for workers at many levels to keep the workforce up-to-date in emerging skill areas and c) continue to convene the professional services employer group as an advisory council to the WIB, the Career Center and CCCC.
- ✓ **Hospitality:** Work with the newly convened retail partnership (convened by the Chamber) to design and offer training in cross-sector skills. Work to increase opportunities for internships and apprenticeships for local youth and underemployed adults at the larger resorts through partnerships with Ocean Edge, Wequassett, Chatham Bars Inn, Catania Hospitality Group (Hearth & Kettles, Daniel Webster Inn ++) and the Cape Cod Restaurant Group.
- ✓ **Marine Sciences /Technology:** Work with the Regional Technology Development Corporation, WHOI and MBL to establish a water technology accelerator on Cape Cod
- ✓ **Development of strategy maps:** Strategy maps have been developed (Appendices B-F)

Category B – Measuring Success

Category B Main Goal: *Put in place structures, tools, and CQI process to track and communicate progress to stakeholders. Create quantitative outcomes to measure results of new strategies.*

The WIB's Leadership Committee, composed of committee chairs from each sector, develops indicators and tracks outcomes for each goal. The Leadership Committee meets quarterly to review progress against goals, making course corrections where necessary and replicating successful programming across new areas of need. Additionally, they review strategic goals to ensure alignment with regional needs as determined by both employer contributions and labor market data provided by CommCorp and other research/data partners. This Leadership Committee has developed the strategy maps (Appendices B-F) for this plan and is creating benchmarks to track progress over the short and long terms.



The WIB staff and its Marketing/Community Relations Committee is developing a new website to support the cross-sector communication goals of ensuring that Cape and Islands employers have mechanisms for sharing real time data on emerging workforce needs and have input into regional strategies to meet those needs. At the same time, this effort will directly and positively impact job seekers: the website will connect job seekers to training, thereby significantly increasing the pipeline of skilled residents prepared to work in growing industries and ensuring that disadvantaged populations, including youth and older workers, have access to employment opportunities.

The new website will be developed in WordPress so that staff is able to update the material easily and quickly. The site will report on WIB and Chamber of Commerce events and current workforce development initiatives, and also will provide a snapshot of information (indicators) that will help Board members to actively monitor progress toward our shared goals in our key industries. This website will be a main portal for regional labor market reports, our regional report card, and additional relevant and timely information. We continue to develop the template and identify the indicators which will best provide a quick view on our progress.

The website will have a dashboard which offers up to date information on the areas covered by the strategy maps.

1. **Results of Board Work:** Demonstrate the impact of the Board to date in the key areas the Board is trying to affect.
 - **Chart the “before and after” status of the Board’s work in key impact strategies or initiatives.** For example, demonstrate the regional effects of the Board driving key sector initiatives, e.g. manufacturing, healthcare.

Before (Problem)	Intervention (Board Activity)	After (Change)
High numbers of unemployed older residents with some – but not all - skills to match job vacancies, cross sectors	Developed, secured funding for and launched our Mature Workers Program	Trained and placed over 40 55+ workers in office support positions.
Area employers unable to promote from within due to skills deficits among incumbent workers	Developed, recruited for and provided cross sector training initiative in management skills for early career managers.	160 area early career managers from 40 employers have completed the 80 hour curriculum, earning a certificate and 4 college credits.
Career Center serving small number of employers	Restructured Business Services Unit	Raised # of participating/served employers from 321 (2007) to 534 (2010)
Health care sector experiencing critical vacancies across types of employers and job categories.	Develop new training programs in partnership with employers, secure funding and link trainees with open jobs.	<p>Doubled LPN capacity in region through establishment of a satellite site for LPN training, to date over 90 additional LPN’s have entered the local workforce through this project.</p> <p>Trained and placed over 50 Certified Nursing Assistants mostly from unemployed/underemployed target population.</p> <p>Provided over 100 incumbent CNA employees</p>

		<p>with advanced training in dementia and other disciplines, including pediatric training</p> <p>Trained and placed 20 entry level administrative employees from target population of unemployed individuals.</p> <p>Helped secure funding and provided technical assistance for RN training program that trained 50 RN's for employer partner.</p>
Area employers in many sectors complaining of lack of job readiness skills in youth applicants.	We created and launched a 25-hour curriculum to help youth develop these skills.	Through linkages with School to Careers, WIA Older Youth programs and an ARRA funded summer youth employment program, we have trained over 300 youth to date.

Category C – Managing the Work of the Board

Category C Main Goal: Design and communicate strong Board membership and participation on all Board discussions and activities. Complete action items from categories A and B. Revise or add to Board Structure permanent workgroups of employers in key sectors to glean real-time intel from employer committee and incorporate into board structure.

The WIB has convened four (three are new) partnerships (construction, retail/hospitality, healthcare, and technology) which will meet regularly to review both current workforce investment activities and progress toward sector goals. They provide real-time feedback on whether or not our planned activities are hitting the mark in terms of meeting their needs and also will help shape new initiatives through curriculum planning, partnership development and offering apprenticeships, etc.

The newly established sector-based partnerships engage employers who are both WIB members and others who are not (but potentially could join) from key sectors. Here are the members of each. An asterisk reflects membership in the WIB as well.

Hospitality [including Retail] ¹	Health Care	Technology / Professional Services	Construction
Hospitality Sally Bowles,* Catania Hospitality Thomas Connolly, Zammer Hospitality Institute Kevin Howard*, Cape Cod Arts Foundation Wendy Northcross,* Cape Cod Chamber of Commerce Sid Snow,* Snow's Home and Garden Brenna Sullivan, Hampton Inn & Suites William Zammer,* Cape Cod Restaurants Retail Rich Angelini, Hyannis Chamber of Commerce David Augustinho, Cape and Islands Workforce Investment Board Amanda Converse, Shift Boutique	Bill Boganovich, Liberty Commons Steve Collasaro, Radius Denise Dever,* Home Instead Senior Care Rosemary Dillon*, Cape Cod Community College Martha Hunter, Spaulding Rehabilitation Hospital Maureen Kalivas, Epoch Assisted Living Deborah Richardson, Berkshire Health Systems Al Roy, Career Opportunities David Ryan, Cape Cod Health Care Cathy Sawyer,	Robert Curtis, RTDC Dave Fravel, 20-Mile Technologies Bruce Gecks, Teledyne Benthos Paula Hersey,* Penguin Digital Design Peter Karlson, NeuEon, Inc. Brian Kasper, Bonsai Logic Steve Lipman, Cape Cod E-Com Teresa Martin, Open Cape Susan Miller, Cape Cod Community College Susan Partridge, Convention Data Services Levi Smith,	Cape and Islands Homebuilders Association (co-convener) Paul Rumel, Davenport Companies* Tony Shepley, Shepley Wood Products Paul Willard, Bortolotti Construction Mike Cole, Cape Associates Tom Capizzi , Capizzi Home Improvement Mike Nardone, M J Nardone Carpentry

¹ The Cape Cod Chamber of Commerce has convened a Retail Partnership. The CIWIB has convened a hospitality partnership which will complement the work of the Retail Partnership and has some shared members, though a broader purpose.

David Epstein, SCORE Leo Fein, Cape Cod Mall Melinda Gallant, South Cape Village Deneen Hatch, Macy's Wendy Northcross*, Cape Cod Chamber of Commerce Rick Penn, Puritan Clothing John Renz, Mashpee Commons Leslie Richardson, Cape Cod Commission Clifford Robbins, SMDC Jennifer Silverman, Davenport Companies Sid Snow,* Snow's Home and Garden	Mayflower Place Alisha Semprini, Five Star Rehabilitation Carol Sim, Hospice and Palliative Care	Complete Payroll Solutions	
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The WIB meets eight times a year with the Executive Committee meeting between eight and ten times. Eight committees (Leadership, Planning & Evaluation, Marketing/Community Relations, Budget & Finance, Human Resources, Disability Advisory, 55+ Mature Worker, and Youth Council) meet at least quarterly. In addition, staff maintains multiple affiliations, and robust partnerships occur in five vital industries, with training and education providers, in the area of community service, and with public sector entities. (Appendix I)

The WIB's internal communication process is coordinated by the Director with committee and board reports and minutes are made available immediately. External stakeholders receive regular and relevant information in person at meetings and through online communications (weekly newsletters). The new website and the addition of Web 2.0 strategies (Facebook, LinkedIn) will create increased visibility among existing and new stakeholders.

The CI WIB represents a geographical and economically diverse region and is committed to board representation that reflects this diversity. The board's executive committee strives to meet certain goals and ensure equal representation from the upper, middle, and lower Cape regions, as well as Martha's Vineyard and Nantucket. Furthermore, the board consists of members who represent the interests of youth, older workers, and education and training programs, as well as each of the five key business sectors as indicated by Labor Market Information profile data for the area: health care, hospitality, technology, construction, and

marine sciences. The Director surveys members of the Board of Directors annually and uses the data to analyze participation trends and determine that all key sectors and regions have adequate representation.

During the current strategic planning process, the Executive Committee of the Board identified several gaps among critical businesses and resolved to recruit new board members to represent these interests, including a local hospital, a high tech company, and marine sciences. The board chair and executive director also are recruiting a business leader from Nantucket, based on our audit above. We expect to make new appointments at our June meeting.

Category D - Financial Resources

Action Planning:

1. Following refinement of strategic plan and measurable goals, develop a *Revenue Plan* that shows:
 - Key regional goals (*e.g. increase supply of nurses*).
 - Estimated funding to achieve goals.
 - Existing resources (public and private). For example, the Board's strategy to increase education and training for critical sectors through ITAs, competitive grants, increase OSCC job counseling etc.
 - Gap between need and existing.
 - Strategies to raise funding and responsible parties.
2. **Please describe how the Board will review progress on its Revenue Plan and how the Board will track the "return" on the staffing or financial investments made in its activities.**

The Budget/Finance Committee of the WIB is responsible for tracking the status/progress of the revenue plan. The Committee reports to the Executive Committee and the full Board. The Committee will track data in the strategy maps as the benchmark for measuring progress.

ROI will also be tracked and reported by the Budget/Finance Committee. Several methodologies will be adopted to measure the return on investment for different programs. For example please see the attached report (appendix K) that uses national modeling data to measure the impact of 50 new CNA's being added to the long term care industry. We will use a similar approach to estimate the impact of training programs, including WIA ITA training if appropriate, on the local economy.

In addition we will use existing data to report on ROI for our WIA programs. In this case we will use average wages, wage gains, and estimated taxes paid as the numerator in our ROI calculation and use the number of jobseekers (adults, dislocated workers or youth) as the denominator to calculate a simple return on the program expenditures.

Appendix A: New Partners

Below is a list of new partners who are either currently engaged or who are on the outreach plan for current members.

For the hospitality sector...	Cape Cod Theater Coalition: This coalition of 17 member organizations with 200 employees among them will help the WIB members to plan for the emerging workforce development needs of arts and culture organizations, the fate of which are closely connected and successes aligned with hospitality sector employer partners. [WIB member Kevin Howard, president of the Arts Foundation will be our liaison to this group].
	The Hyannis Sports Complex: This development brings together our construction partners and our hospitality partners in a new endeavor to expand the year-round entertainment options for both tourists and residents. Working closely with our employer partners, the WIB will be providing workforce development programming to train incumbent and unemployed workers for the construction, maintenance, technical and administrative positions that accompany this project.
For our technology sector...	Open Cape: The ARRA funded initiative to expand the Cape's wireless infrastructure will result in an increase in the already-significant small and self-employed technical services entrepreneurs. The WIB members, through the newly established technology employer partnership, will create forums for these small business people to work together to identify and meet workforce development needs as they move from one to three employees to becoming larger companies.

Appendix B: Health Care Strategy Map

Health Care		
Goal: To increase the capacity of the workforce to meet critical employer needs.		
Key Strategy: To strengthen and expand training programs for certified nursing assistants (CNAs), licensed practical nurses (LPNs), and home health aides		
Skills Gaps: <ul style="list-style-type: none"> • Trained nurses and nursing assistants • Providers for elderly 		WIB Point Person: Denise Dever
Objectives: To increase the available pool of qualified health care workers to meet the current and anticipated needs of the region		WIB Members: <ul style="list-style-type: none"> • Denise Dever, Home Instead Senior Care • David Ryan, Cape Cod Health Care • Betty Pease, Elder Services of Cape Cod
Current Activities: <ul style="list-style-type: none"> CNA training Fast track LPN to RN program Programs in gerontology Linking MRC to employers 	Anticipated Results: <ul style="list-style-type: none"> 20 trained CNAs within 24 months 10 LPNs to RNs within 24 months 3 MRC graduates placed 	Additional Employer Partners: <ul style="list-style-type: none"> Cape Cod Hospital (see Health Care Partnership)
Planned Activities: <ul style="list-style-type: none"> • Transitional employment program for youth ages 17 to 24 • Home health aide training program • Health Care partnership will meet quarterly to review goals and progress 	Anticipated Results: <ul style="list-style-type: none"> Health careers pathways for youth Increase in highly qualified health care workers Increased responsiveness to employer needs 	Additional Training Partners: <ul style="list-style-type: none"> Cape Cod Community College Upper Cape Tech Cape Cod Tech

Part time LPN program to be developed (following acquisition of new resources).	Increase annual LPN capacity + 20	Upper Cape Tech
Current Resources	Potential Resources	Total Resources
Transitional Employment Grant to support training for 24 CNAs \$177,000	Currently seeking federal or foundation funding to establish a part time LPN program to increase career ladder opportunities for CNA's & meet employer needs \$400,000	\$177,000
WIA ITA funds \$10,000		\$ 10,000
Pell Grants @ Cape Cod Community College and two Tech Schools (Continuing Ed @ Tech Schools)		\$ 25,000
Perkins funding \$25,000		\$400,000
Target Population Unemployed adults, Older Youth, Mature workers esp. Home Health Aides		

Appendix C: Hospitality Strategy Map

Hospitality

Goal: To increase the capacity of the workforce to meet critical employment needs

Key Strategies:

- Increase the pool of trained workers to meet the demand
- Provide opportunities to expand the seasonal nature of much of the sector and assist employers to manage the fluctuations of a seasonal economy
- Development of full year employment opportunities to retain hospitality students and mid-level managers

Skills Gaps:

- Customer service
- Communication and language skills

WIB Point Person:
Gwynne Seidell,
Ocean Edge Resort

Objectives:

To increase the available pool of qualified hospitality workers to meet the current and anticipated needs of the region

WIB Members:
• Sally Bowles,
Catania Hospitality
• Tim Melia , UFCW
• William Zammer,
Cape Cod
Restaurants, Inc.

Current Activities:

- Collaborate with the Chamber's newly convened retail partnership to design and offer training in cross-sector skills.
- ESOL
- Offer Youth Employment Skills training (YES) for area youth

Anticipated Results:

- Employers report easier time hiring qualified workers
- Employer partners report greater satisfaction with new hires

Additional Employer Partners:
• Ocean Edge Resort
• Wequassett Resort and Golf Club
• Catania Hospitality
• UFCW
• Cape Cod Restaurants Inc.

Planned Activities:

- Increase opportunities for internships and apprenticeships for local youth and underemployed adults
- Create certificate programs
- Offer apprenticeships and

Anticipated Results:

- CAMP graduates will remain employed and/or get promotions and/or wage increases in coming year.

Additional Training Partners:
• Cape Cod Community College
• Cape Cod Regional Technical High School

<p>other opportunities for youth Consider adopting and/or creating programming to support local youth in obtaining a National Hospitality Credential</p> <p>Offering an employer workshop on how to obtain MRC subsidy for hiring MRC graduates</p>	<p>Reductions in unemployment claims among region's hospitality workers</p> <p>More MRC placements at employers whose staff have attended subsidy information session.</p>	<p>•Upper Cape Technical High School</p>
<p>Current Resources</p> <p>Partner resorts offering apprenticeships Pell Grants @ Zammer Institute (Cape Cod Community College) WIA ITA funds \$25,000</p>	<p>Potential Resources</p> <p>MRC subsidies for new hires among their graduates \$5,000</p>	<p>Total Resources</p> <p>\$5,000</p> <p>\$25,000</p>
<p>Target Population: Older Youth Unemployed adults Mass. Rehab Clients</p>		

Appendix D: Technology Strategy Map [including Marine Science]

Technology		
Goal: To increase the capacity of the workforce to meet critical employment needs		
<p>Key Strategy: To increase professional development opportunities for technology professionals and new entry workers To provide ongoing support for specific projects which enhance the region's tech sector economy, specifically the Smart Water initiative and support for small technology start ups and entrepreneurial activity (Entrepreneurs Resource System)</p>		
<p>Skills Gaps:</p> <ul style="list-style-type: none"> •web design and development •project management •information technology •marketing and social media skills 		<p>WIB Point Person: Paula Hersey , Penguin Digital Design</p>
<p>Objectives: To increase the available pool of qualified technology and marine science workers to meet the current and anticipated needs of the region</p>		<p>WIB Members: Peter Karlson Bev Horan</p>
<p>Current Activities: Convening of the professional services employer group as an advisory council to the WIB, the Career Center, and CCCC. Support Geek Girls activities in professional development</p>	<p>Anticipated Results: Employers will have 2-3 more annual opportunities to convene, learn from each other and share skills Employees and unemployed will have multiple professional development opportunities in emerging and new technologies</p>	<p>Additional Employer Partners: Technology partnership members</p>

<p>Planned Activities: Programs and professional development opportunities that train potential employees on relevant technology platforms and emerging skills</p> <p>Open Cape</p> <p>Water Technology Incubator</p> <p>Establish Entrepreneurs Resource System (ERS)</p> <p>Train 5-10 Managers in CAMP</p>	<p>Anticipated Results:</p> <p>Less downtime, better results for employers; resulting in more hiring among local tech employers</p> <p>Increase Broadband Capacity & stimulate company formation Provide jobs for locally trained workers</p> <p>Stimulate New Company formation & job demand</p>	<p>Additional Training Partners:</p> <ul style="list-style-type: none"> •Cape Cod Regional Technical High School •Upper Cape Technical High School •Cape Cod Community College
<p>Current Resources County EDC grant for ERS \$30,000</p> <p>Camp Slots</p>	<p>Potential Resources</p> <p>\$10,000 High Performing Board Award</p> <p>Open Cape initiative is bringing new resources to the area (\$30 Mil infrastructure Investment)</p> <p>Cape Wind Project will provide training site for apprenticeships</p>	<p>Total Resources \$30,000</p> <p>\$10,000</p>
<p>Target Population</p> <p>Older youth Unemployed/underemployed Adults</p>		

Appendix E: Construction Strategy Map

Construction		
Goal: To ensure that the construction industry has access to a qualified workforce		
Key Strategy: Collaborate with the construction industry and local education providers (see below) to provide training and placement in office/administrative support positions, project management, and energy efficiency.		
Skills Gaps: <ul style="list-style-type: none"> •Administrative support •Project management •Carpentry •Energy efficiency 	WIB Point Person: Paul Rumul, The Davenport Companies	
Objectives: To increase the available pool of qualified construction workers to meet the current and anticipated needs of the region	WIB Members: Sid Snow, Snow Home and Garden David Sampson	
Current Activities: CAMP (Cape Area Management Program)	Anticipated Results: Employers hire trained office managers from CAMP graduates and/or send current employees to CAMP	Additional Employer Partners: Shepley Wood Products Mid Cape Home Centers
Planned Activities: Project Management skills training program, to be offered in partnership with technical high schools and college Train Office workers in-house @ Career Opportunities	Anticipated Results: Program graduates find placements at the area's construction companies	Additional Training Partners: <ul style="list-style-type: none"> •Cape Cod Regional Technical High School •Upper Cape Technical High School •Cape Cod Community College

Current Resources	Potential Resources	Total Resources
WIA ITA (training for office positions) \$10,000 Computer and QuickBooks training through Career Opportunities Workshops		\$10,000
CAMP training for Managers	\$20,000 High Performing Board Award	\$20,000
Target Population		
Mature workers Older Youth		

Appendix F: Youth Employment Services Strategy Map

Youth		
<p>Goal: Develop strategies to encourage youth to stay in school Create supportive pathways for youth to enter employment Support efforts to resolve youth transportation issues in our region</p>		
<p>Key Strategy: Support a three-part initiative to a) promote positive foundations for youth and their families, and b) build stepping stones to employment and c) develop supportive networks for youth as well as networking opportunities with local businesses.</p>		
<p>Skills Gaps:</p> <p>Youth lack employability skills / soft skills</p>		<p>WIB Point Person:</p> <p>Joan McDonald</p>
<p>Objectives:</p> <p>To ensure that youth are well-positioned to enter the workforce and that employers see the value in hiring youth</p>		<p>WIB Members:</p> <p>All Youth Council</p>
<p>Current Activities:</p> <p>Use YES Curriculum across all sector activities, schools and grades</p> <p>Connect YES users to each other</p> <p>STC/Connecting Activities Keep Them Coming: Truancy Reduction program Career for a Day MRC family outreach</p>	<p>Anticipated Results:</p> <p>An increase in youth apprenticeships/internships</p> <p>Youth more likely to plan their career pathways</p> <p>Parents more engaged in helping youth achieve their career goals</p> <p>Families more connected to services that can help support youth</p>	<p>Additional Employer Partners:</p> <p>MRC Ocean Edge Resort</p>

Planned Activities: Adapt the YES curriculum for middle and elementary schools Offer more career exploration for middle and high schools students as well as 18+ Encourage employers to mentor youth Provide middle school afterschool career oriented activities Create internships for local youth Start a school/student business networking event Support interagency sharing of best practices in youth training, placement and post-placement support	Anticipated Results: Increased graduation, employment and retention rates Decreased employer complaints about youth hires	Additional Training Partners:
Current Resources EOLWD Youth funding \$20,000 School To Careers \$75,000	Potential Resources Foundation support for Youth Employability Skills Curriculum \$5,000	Total Resources \$20,000 \$75,000 \$ 5,000
Target Population At Risk Older youth At Risk Younger Youth		

Communications Strategy

Goal: To increase the frequency and broaden the content of our internal and external communications.

Key Strategy: Redesign our website to increase social media opportunities and to reposition the WIB Brand with more and better content. Also to highlight WIB success' to a broader audience.

Gaps:

- Current website difficult for staff to manipulate
- Current website needs to be updated to make full use of social media

WIB Point Person:
Paula Hersey, Penguin
digital Design
Peter Karlson, Nueon,
Inc.

Objectives: institute a Wordpress based website that is more user friendly for general public, board members, and staff.

WIB Members:
**Marketing/Community
Relations Committee**

Current Activities:

Static website
Basic Newsletter
Basic Social Media

Planned Activities:

Interactive website
More statistical reporting on
WIB and Career Opportunities
Activities
Extensive use of social media
Member Section for Board use

Results:

More traffic
Higher visibility in
Community
More contact with
Board members
between meetings

Timeline:

New site operational end of Q1
FY'12

Current Resources

\$ 0

Potential Resources

\$5,000 from High Performing
Board Reward

Total Resources

\$5,000

Appendix G: Board Structure and Community Engagement

Board Structure and Community Engagement									
Committees meet at least quarterly									
WIB	6 board meetings per year	Executive Committee meets 10 times per year	Leadership Committee	Planning & Evaluation Committee	Marketing/Community Relations	Budget & Finance	Human Resources Committee	Disability Advisory Committee	55+ Mature Worker Committee
WIB Staff Affiliations	Cape Cod Human Resources Association	Cape Cod Chamber of Commerce	Housing Assistance Corp	American Business Women's Association Cape Cod Chapter	Hyannis Rotary	Regional Technology Development Corp.	Cape Cod Technology Council, Inc	Cape Cod Economic Development Council	Wampanoag WMB
Partnerships	Hospitality	Construction	Retail	Health Care	Technology, Professional Services and Marine Science	Health Care	Cape Cod Theater Coalition	Open Cape	The Hyannis Sports Complex
Education Partnerships	Youth Council	Community Partnerships Committee	Mentoring Committee	Youth Employability Skills Committee	WIA Committee	School to Careers/Connecting Activities	Town and regional elementary, secondary and technical schools	Cape Cod Community College	Parkins Local Plan Advisory Board
Community Services Partnerships	Independence House	Housing Assistance Corp.	Community Development Partnership	Upper Cape Tech Community Service Grant Team	Keep Them Coming truancy reduction program- DA's office, WIB, DY Schools and Cape Cod Neighborhood Support Coalition	Barnstable County Council for Children, Youth and Families	BeS3 Barnstable's Smart Safe and Sober	Cape Cod Justice for Youth Collaborate	
Public Partnerships	Dept. of Transitional Asst.	Dept. of Developmental Services	Massachusetts Rehabilitation Commission	Massachusetts Department of Children and Families	Law Enforcement: DA, Sheriff's Dept., DYS	Town and regional elementary, secondary and technical schools	Barnstable County Commissioners	Cape Cod Transit Taskforce	Cape and Islands Community Development, Inc

Communication Process				
Internal	Executive Committee 10 or more meetings annually	Committee quarterly meetings	Reports from committees	6 Board meetings annually
External	Chamber of Commerce	Board Member Affiliations	Executive Director Affiliations	WIB Staff Affiliations Barnstable County Commissioners
WIB Member	Board and Committee Meetings and reports	Surveys	Weekly newsletter	Focus Groups Monthly Newspaper Column Local radio stations for workforce news, updates and interviews about special projects Plans to upgrade website to increase traffic and visibility
Stakeholder	Quarterly meetings of partnership working groups and councils	Surveys	Weekly newsletter	Focus Groups Monthly Newspaper Column Local radio stations for workforce news, updates and interviews about special projects Plans to upgrade website to increase traffic and visibility Social Networking Facebook, LinkedIn – Plans to increase visibility and dissemination of workforce news and developments

Appendix H: Board Member Representation from Key Sectors and Geographic Areas

CAPE AND ISLANDS WORKFORCE INVESTMENT BOARD		
LMI REPRESENTATION		
<i>Sectoral Representation</i>	<i>Contact</i>	<i>Affiliation</i>
<i>Health Care</i>	Denise Dever	Home Instead Senior Care and Chair of the CI WIB
	David Ryan	Cape Cod Health Care
	Betty Pease	Elder Services of Cape Cod
<i>Hospitality</i>	Sally Bowles	Catania Hospitality
	Tim Melia	United Food and Commercial Workers Union
	William Zammer	Cape Cod Restaurants Inc.
	Gwynne Seidell	Ocean Edge Resort
<i>Technology</i>	Paula Hersey	Penguin Digital Design
	Bev Horan	INFOR
	Peter Karlson	NeuEon
<i>Construction</i>	Paul Rumul	Davenport Building Company
	David Sampson	DPS Property Management & Construction
<i>Marine Sciences</i>	Bruce Gecks	Teledyne Benthos
<i>Education and Training</i>	Robert Sanborn	Cape Cod Regional Technical High School
	Kevin Farr	Upper Cape Technical High School
	Kathleen Schatzberg	Cape Cod Community College
<i>Youth</i>	Beth Griffin	Upper Cape Technical High School/ Chair of the CI WIB Youth Council
<i>Older Workers</i>	Jerry Fishbein	SEIU
	Betty Pease	SECEP Mature Workers Program
<i>Upper Cape</i>	David Sampson, Kevin Farr, Bruce Gecks, Yvonne Tobey, Bill Zammer	

CAPE AND ISLANDS WORKFORCE INVESTMENT BOARD GEOGRAPHIC REPRESENTATION		
<i>Mid Cape</i>	Sally Bowles, Don Brown, Denise Dever, Deneen Hatch, Paula Hersey	
<i>Lower Cape</i>	Elizabeth Bridgewater, Peter Karlson, Sheila LyonsRobert Sanborn, Sid Snow, Gwynne Seidell	
<i>Martha's Vineyard</i>	Nancy Gardella	Martha's Vineyard Chamber of Commerce
<i>Nantucket</i>		

Appendix I: Staff Affiliations

Staff Member	Title	Community and Professional Affiliations
David Augustinho	Executive Director	Cape Cod Chamber of Commerce; Regional Technology Development Corp; Housing Assistance Corporation; Independence House; ACCCESS (ABE); Cape Cod Community College Perkins, Seniors, Hospitality Advisory Committees;
Joan McDonald	Operations Manager	
Razza Millard	Administrative Assistant	
Andrea Melvin	Bookkeeper	

Appendix J: Strategic Plan Overview

Mission: <i>The Cape and Islands Workforce Investment Board coordinates investments in workforce development across the region to ensure that the area's employers have access to a trained and skilled workforce sufficient to meet their business objectives.</i>		
Goals	Area of Focus	2011-2012 Indicator of Success
Ensure a skilled workforce in key sectors including:		
Health Care	Training CNAs and RNs, especially for long-term care facilities and jobs	24 new CNA placements at employer partners
Technology	Ensuring up-to-date skills among the areas technology workforce	3 new professional development offerings in high-tech (courses, certificates, conferences, other events)
Hospitality	Reducing shortages in-season, and reducing layoffs off-season	Reductions in unemployment claims and employer reports on ease of hiring appropriately skilled workers
Construction	Supporting back-office capacity commensurate with size of company	12 workers trained through CAMP and/or project management and working with employer partners (either incumbent or new hires)

Appendix K: ROI

ROI/Economic Impact of adding 50 new CNA workers in long term care industry

Region Info

Region: Cape & Islands WIB

County Areas: Barnstable, Massachusetts (25001), Dukes, Massachusetts (25007), Nantucket, Massachusetts (25019)

Executive Summary

Industries Modified

Nursing Care Facilities (623110)

Description

Year	2010
Jobs Change	73
Earnings Change (in thousands)	\$3,086
Earnings per Worker Change	\$-0.10
Sales Multiplier	1.57
Jobs Multiplier	1.45
Earnings Multiplier	1.41

Source: EMSI Complete Employment - 1st Quarter 2011

Largest Impacts

Most Impacted (Earnings (K))

NAICS Code	Description	Change (K)
623110	Nursing Care Facilities	\$2,200
930000	Local government	\$150
622110	General Medical and Surgical Hospitals	\$63
621111	Offices of Physicians (except Mental Health Specialists)	\$42
722110	Full-Service Restaurants	\$24
541110	Offices of Lawyers	\$19
445110	Supermarkets and Other Grocery (except Convenience) Stores	\$15
722211	Limited-Service Restaurants	\$13
531210	Offices of Real Estate Agents and Brokers	\$12
621210	Offices of Dentists	\$12

Most Impacted (%)

NAICS Code	Description	% Change
623110	Nursing Care Facilities	1.94%

Source: EMSI Complete Employment - 1st Quarter 2011

Scenario Results (all affected industries)

NAICS Code	Description	Original Earnings (K)	Current Earnings (K)	Change (K)	% Change	EPW(K)
11	Agriculture, Forestry, Fishing and Hunting	\$46,649	\$46,651	\$2	0.0043%	\$22
21	Mining, Quarrying, and Oil and Gas Extraction	\$47,122	\$47,124	\$2	0.0042%	\$151
22	Utilities	\$58,542	\$58,551	\$9	0.0154%	\$136
23	Construction	\$794,986	\$795,050	\$64	0.0081%	\$53
31-33	Manufacturing	\$153,561	\$153,571	\$10	0.0065%	\$56
42	Wholesale Trade	\$165,611	\$165,644	\$33	0.0199%	\$65
44-45	Retail Trade	\$667,629	\$667,724	\$95	0.0142%	\$33
48-49	Transportation and Warehousing	\$165,618	\$165,646	\$28	0.0169%	\$45
51	Information	\$119,319	\$119,336	\$17	0.0142%	\$48
52	Finance and Insurance	\$442,288	\$442,301	\$13	0.0029%	\$60
53	Real Estate and Rental and Leasing	\$204,777	\$204,832	\$55	0.0269%	\$19
54	Professional, Scientific, and Technical Services	\$633,138	\$633,200	\$62	0.0098%	\$55
55	Management of Companies and Enterprises	\$28,338	\$28,341	\$3	0.0106%	\$64
56	Administrative and Support and Waste Management and Remediation Services	\$251,906	\$251,953	\$47	0.0187%	\$28
61	Educational Services	\$52,925	\$52,935	\$10	0.0189%	\$22
62	Health Care and Social Assistance	\$1,015,260	\$1,017,639	\$2,379	0.2343%	\$52
71	Arts, Entertainment, and Recreation	\$147,883	\$147,892	\$9	0.0061%	\$22
72	Accommodation and Food Services	\$460,197	\$460,247	\$50	0.0109%	\$25
81	Other Services (except Public Administration)	\$275,727	\$275,771	\$44	0.0160%	\$34
90	Government	\$1,141,097	\$1,141,247	\$150	0.0131%	\$67

Source: EMSI Complete Employment - 1st Quarter 2011



The Cape & Islands Regional Workforce Blueprint

The Link for Local Employment



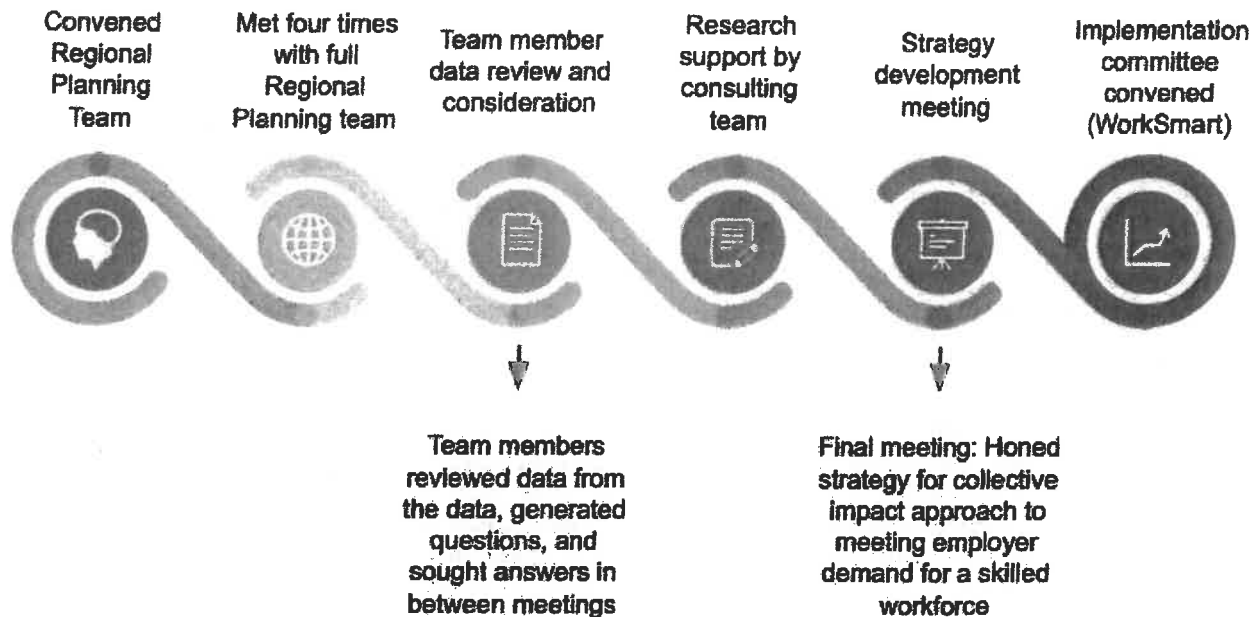
I. Introduction

Regional Planning Team.

Under the guidance of the Massachusetts Workforce Skills Cabinet (WSC) Secretariats, the following individuals convened as the Cape and Islands Regional Planning Team. The team was comprised of representatives from local businesses (3), higher education (2), K-12 education (4), economic development agencies (6), Cape and Islands Workforce Development Board members (5).

Cape and Islands Regional Planning Team	
Chris Richards	Cape Cod Five Cents Savings Bank
Bob Dutch	Upper Cape Cod Regional Technical High School
Jay Coburn	Community Development Partnership
John Cox	Cape Cod Community College
Maria Marasco	Mass Development
Paul Niedzwiecki	Cape Cod Commission
Rob Sanborn	Cape Cod Regional Technical High School
Wendy Northcross	Cape Cod Chamber of Commerce
Leslie Richardson	Cape Cod Commission
Jeanine Marshall	Coastal Community Capital
Francis McDonald	Mass Maritime Academy
Kristin Broadley	Centerville Pies
Adam Turner	Martha's Vineyard Commission
Laura Newstead	Cape Cod Five Cents Savings Bank
Meg Mayo Brown	Barnstable Public Schools
John Mann	NAGE
Andrew Vorce	Town of Nantucket
Annie Dolan Niles	Cape Cod Regional Technical High School

Regional Planning Process



Planning Team Meeting 1 (April 20th) & 2 (July 28th)

Our first two meetings gave our team the opportunity to review both demand and supply data, which, in addition to creating a timeline of regional events, provided us with a shared understanding of our region's history and current situation. We also developed criteria for choosing our priority industries and occupations

- We hired consulting firm, Strategy Matters, to provide design and facilitation of meetings 3 & 4, as well as support the completion of our Labor Market Blueprint.

Planning Meeting 3: October 31st

Meeting 3 began with a review of our Regional Planning work to date, such as how and why our priority industries and occupations were chosen, and the impact investment in those areas can have on this unique region. That conversation yielded a handful of strong themes that were present in all of our conversations. Strategy Matters used those themes to draft 3 vision statements and 3 mission statements that were sent via online survey for voting.

Team members chose the statements that they felt were most wholly reflective of the work they are accomplishing and the principles that guide it. Lastly, we set overarching goals for 2018, 2020, and 2022.

Planning Meeting 4: November 14th

The primary goal of meeting 4 was to identify and confirm mutually reinforcing activities that would result in achieving the goals articulated in meeting 3. Strategy Matters asked the group to participate by posting their ideas and contributions to a venn diagram of the three systems. Those ideas and activities were compiled, distilled, and decided on by the Regional Planning Team.

- Strategy Matters compiled relevant data to guide and bolster the blueprint, including the Cape Cod Chamber of Commerce's Workforce Development Task Force Report (July 2017). The report provided a considerable amount of feedback from employers; including contractors, the trades, financial services, education, hospitality, and care.
- Wendy Northcross, of the Cape Cod Chamber of Commerce, has been a vocal and devoted partner, attending all meetings as well as co-sponsoring them.

Business Engagement

The Team engaged members of the business community from many sectors, including banking/finance (two on the planning team and two more through outreach and engagement in WorkSmart), construction (two businesses) hospitality (three businesses), and retail (one business).

Business partners were and are engaged in three ways:

- 1) Through planning meetings of the Workforce Development Board and its committees, including but not limited to the Regional Planning meetings
- 2) Through targeted outreach on specific questions/issues related to the development of the regional plan
- 3) Through regular communications from the Workforce Development Board, with follow up invited and supported.

Additionally, our efforts were bolstered by the Workforce Development Task Force Summary from our partners at the Cape Cod Chamber of Commerce. The Task Force hosted several focus groups with over 20 participants from various businesses and organizations in the region including:

Sail Cape Cod
Ameres Systems
Blue Institute
Center for Corporate and Professional Education
The Furies
Cape Built
Maffei Landscaping
Glivinski & Associates
Asset Management Resources LLC
Cape Cod Child Development
Red Jacket Resorts
Scargo Cafe
Sage Inn
CapeAbilities
Winnetu

In all sectors, housing was listed as the top challenge for employee recruitment and retention. Employers also noted that due to the changes in federal regulations for the H-2B Visa temporary seasonal worker program a shortage of 1,000 to 1,500 summer workers was predicted for 2017. There was also a shared request for a standard definition of "Blue Economy" and a soft skills curriculum to share with new employees. Another key takeaway was the need to change the perception of industries like construction and occupations like landscaping. These are jobs for craftspeople where the region pays higher than the national average (landscaping pays \$14.65 per hour vs. \$11.80).

II. Where are we now? Describe the current state of your region, including an analysis of industries, occupations, demographic shifts, and gaps between employer demand and employee supply.

Regional Context

Critical trends in population change in the next decade that will have an impact on the workforce

The total population of the Cape and Islands region has held somewhat steady between 2001-2016, and is not expected to change significantly in the coming five years. The Region has also seen a small shift in the racial and ethnic diversity of the region, with significant upticks in the number of individuals who identify as Hispanic.

Critical trends in regional demographics that will have an impact on the workforce

What's more notable are the changes that have occurred within subsets of the total population. Between 2001 and 2016 the Cape and Islands region saw demographic shifts that have major implications for the workforce. Most evident is the increase in the number of individuals who are at or approaching retirement age. Although the percentage of people ages 20-29 has increased, the region has seen a dip in key workforce age brackets (people age 30-54) and an increase in the number of people from ages 55-69.¹ Similarly, the number of millennials in the region is lower than that for comparably sized areas.² This increase in the aging population means that large swaths of the workforce are or will be retiring, and although this is a challenge across much of the US, the dearth of millennials in this region will compound the effects of that workforce shortage. The aging population of the region is a primary concern for the Cape and the Islands, and ensuring an economy for young professionals is a priority that ties into many of the region's goals.

Past and current high-level industry trends affecting workforce needs

¹ Population Demographics Snapshot Report, October 2017

² Emsi Economy Overview, Q3 2017 Data Set. This report includes data analysis from the U.S. Census Bureau, Bureau of Economic Analysis, Bureau of Labor Statistics, Employment and Training Administration, U.S. Department of Education, Career Builder, and job postings.

The region's fastest growing industry sectors are as follows³:

Sector (NAICS)	Net increase by 2024	% increase by 2024
Health Care and Social Assistance (62) including <ul style="list-style-type: none"> • Ambulatory Health Care Services • Social Assistance • Hospitals • Nursing and Residential Care Facilities 	3,005	16.90%
Accommodation and Food Services (72) including <ul style="list-style-type: none"> • Food Services and Drinking Places • Accommodation including Hotels and Motels 	934	5.00%
Construction (23) including <ul style="list-style-type: none"> • Specialty Trade Contractors • Construction of Buildings 	435	6.60%
Education Services (61)	362	4.20%
Retail Trade (44)	218	1.20%

Critical trends in occupational employment

The sectors above are well aligned with many occupations projected to see high levels of growth in the coming years. The anticipated highest growing occupations are⁴

- Personal Care Aides (31.40% growth by 2024)
- Preschool Teachers, Except Special Education (23.9%)
- Childcare Workers (19.3%)
- Mental Health and Substance Abuse Social Workers (19%)
- Social and Human Service Assistants (18.5%)

A higher-level examination of top growing occupations shows a significant amount of overlap in areas of growth, a mix of educational requirements, and (perhaps most importantly), occupations that are utilized in more than one of the region's top growing industries.

³ Massachusetts Executive Office of Labor and Workforce Development, [Long Term Industry Projections](#)

⁴ Massachusetts Executive Office of Labor and Workforce Development, [Most Job Openings for Cape and Islands WDA](#)

The top growing occupations in the region are well-aligned with sector growth, and all can provide inroads into the priority occupations :

Occupation	Increase
Landscaping and Groundskeeping Workers	18%
Waiters and Waitresses	10%
Construction Laborers	23%
Janitors and Cleaners, Except Maids and Housekeeping Cleaners	24%
Combined Food Preparation and Serving Workers, Including Fast Food	16%

In addition to these overall growing occupations and sectors, the region has invested resources in understanding and cultivating the emerging Blue Economy.

The Blue Economy: What is it and why is it important to our region?

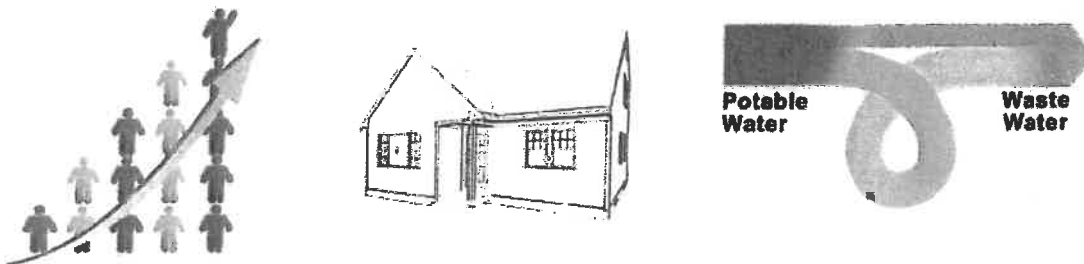
The Blue Economy describes businesses that are directly dependent on the water (dark blue economy), and businesses that are likely located in the region because of the water (but are not directly dependent) (medium blue economy). Globally, Blue Economy strategies have been embraced and supported economic success for communities with similar proximity and dependence on bodies of water. In 2016, the Cape Cod regional Blue Economy was comprised of at least 1,872 businesses with 20,530 employees, accounting for \$1.4 billion in gross revenues. The Blue Economy accounts for 12% of jobs and 11% of gross revenues in the region, and the dark blue economy is projected to grow through 2022. Growth is projected at 4.3% in the Cape and Islands Workforce Development Board region. That growth is especially concentrated the in 16.3% in Dukes County and 12.7% in Nantucket County which are a part of the Cape and Islands WDB region.

According to the Cape Cod Blue Economy Project⁵, “between 2003 and 2014, the number of blue establishments in the Cape Cod region increased by 42%, the number of employees

⁵ Cape Cod Blue Economy Project, *Blue Economy Project Implementation Plan: A Call to Action*

employed by blue business increased by 50%, and annual payroll for blue business increased by 111%. Tourism & Recreation accounts for 46% of the Blue Economy revenues, followed by Research, Education, Advocacy, Support Services at 31%. The top five industries in the blue economy by number of jobs are shellfish fishing, marinas, environmental conservation organizations, finfish fishing, and recreational businesses like yacht clubs and charter boats. The top five industries in the blue economy by earnings are manufacturers of instruments for search and navigation, research and development, environmental conservation organizations, environmental consulting services and boat dealers." The anticipated growth in the five top industries in the blue economy, means that the industries and occupations that support them will grow as well. This includes our priority industries and occupations, which are outlined later in this document.

Regional Challenges and Opportunities



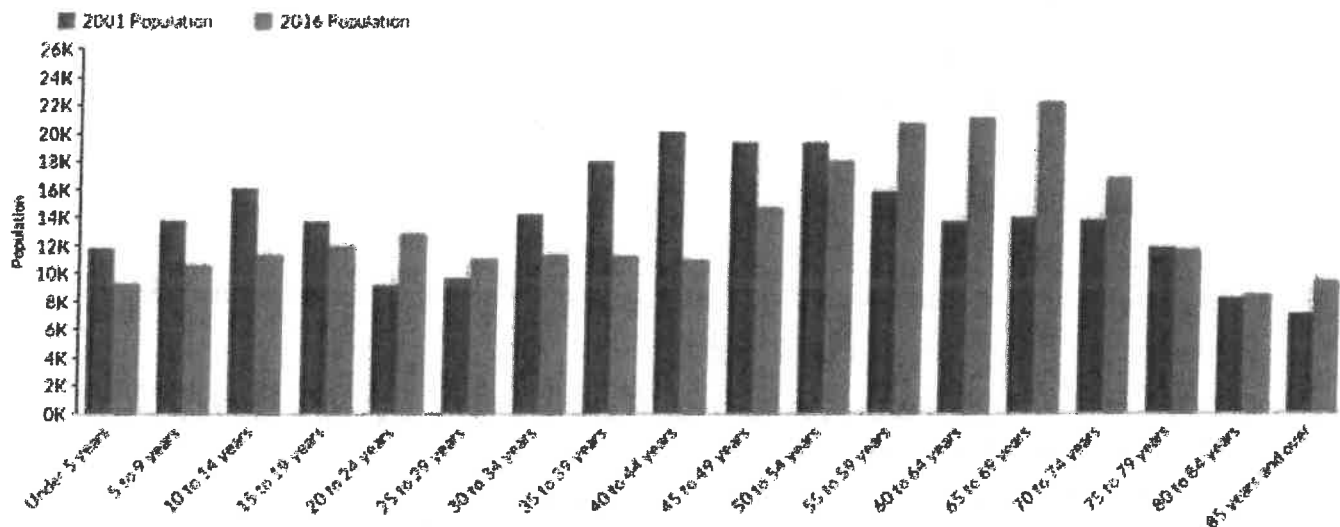
Housing stock, water and related infrastructure, and the state of the current workforce all present interrelated challenges.

- The region's young people want to stay or come back to the Cape. Additionally, workers from other regions might move here, if we had more housing stock, and if that stock were more affordable. Also, our current supply of housing is increasingly occupied by year-round residents, significantly reducing the availability of seasonal housing options for our increasing seasonal workforce.
- We can't build more housing until we manage to expand our regional capacity for wastewater treatment.
- The workforce shortages experienced by our priority industries cannot be addressed in isolation. Our priority industries have many vacancies at entry level

and lower wage positions; positions which could be filled if those workers could be housed in the region.

Finally, as indicated above, the number of people retiring soon is disproportionately high, and this is compounded by disproportionately low number of people ages 20-34. Regional labor force participation rate increased between 2011-2016, but is still below state (65.8%) and national (63.1%) averages.

Population by age cohort:



Industry Demand Analysis

The challenges of the Cape and Islands Region are directly tied to the industries that will support its economic success. The economic success of the region is dependent on improvements in infrastructure and basic services, along with bolstering an already thriving tourism industry, and creating career pathways to and within the Blue Economy.

The industries that are most vital to the region's economic success are as follows:

- **Hospitality:** a core element of the region's economy.
- **Healthcare:** a basic need for any economy, specifically responds to our region's aging population; seasonal stability.
- **Services to buildings and dwellings:** landscaping services and general upkeep.
- **Water, Sewage, and Other Systems:** ties into the need for improved infrastructure to ensure that the workforce can expand, and offers many opportunities for individuals without post-secondary education.

There is some overlap in the vital industries, and those that are experiencing significant workforce development challenges:

- **Hospitality** seasonality creates challenges for workforce

- **Healthcare and Social Assistance** face significant supply gaps in multiple education requirements
- **Education** has a proliferation of part-time opportunities and faces supply gaps in sub-Bachelors degree occupations.

Occupational Demand Analysis

What are the top occupations or occupational groups in which the region is facing the most significant employee shortages?

The most significant employee shortages in the region occur in the following occupational clusters and specific occupations:

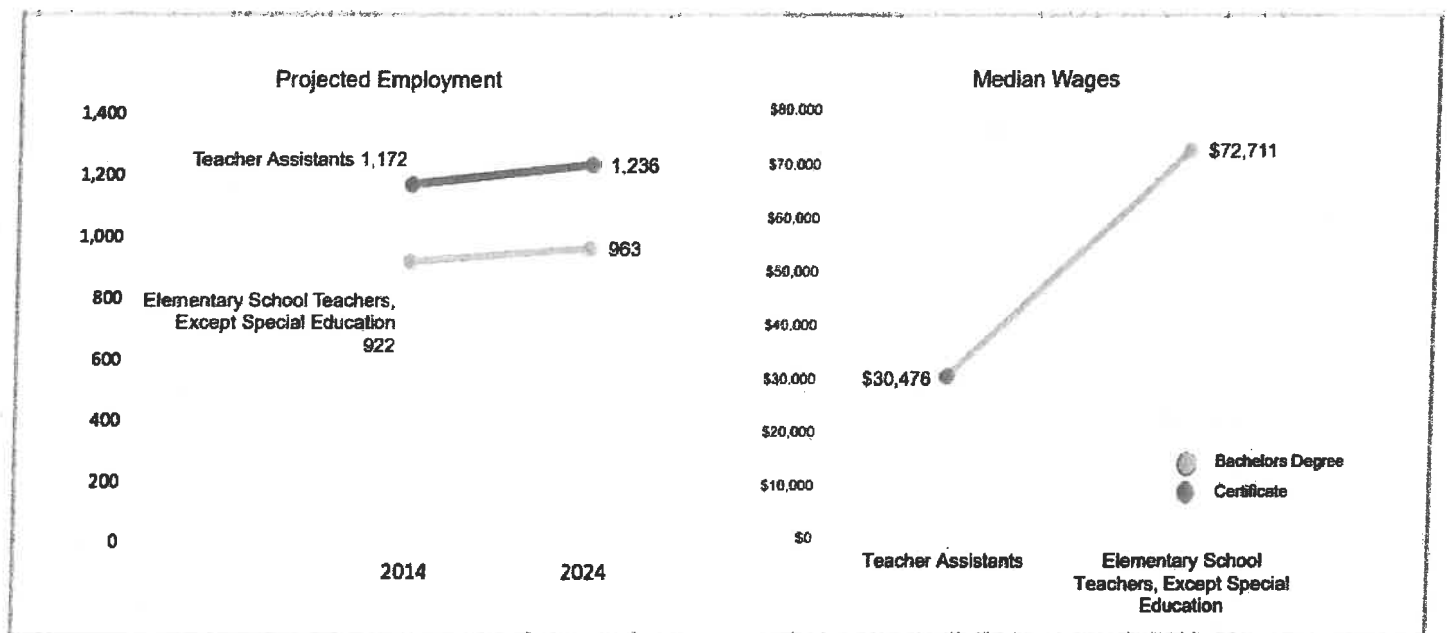
- **Food Preparation and Serving Related Occupations**
 - Including: Waiters and Waitresses; Cooks, Restaurant; Food Preparation Workers; Bartenders; Counter Attendants, Cafeteria, Food Concession, and Coffee Shop; Chefs and Head Cooks
 - Annualized HWOL range of 84 - 600; wages are lower than regional average
- **Building and Grounds Cleaning and Maintenance**
 - Including: Landscaping and Groundskeeping; Janitors and Cleaners; First Line Supervisors of Landscaping, Lawn, and Groundskeeping Workers
 - Annualized HWOL range of 84 - 684; wages are often lower than regional average
- **Personal Care and Service Occupations in the Health Care sector**
 - Including: Childcare Workers; Personal Care Aides; Recreation Workers
 - Annualized HWOL range of 36 - 336; wages are often lower than regional average
- **Office and Administrative Support Occupations in the Health Care sector**
 - Including: Office Clerks; Medical Secretaries; Receptionists and Information Clerks
 - Annualized HWOL range of 132 - 204; wages are often lower than regional average
- **Education, Training, and Library Occupations**
 - Including Teachers (multiple occupations)

- Wages range from \$20,000 below to \$20,000 above regional average

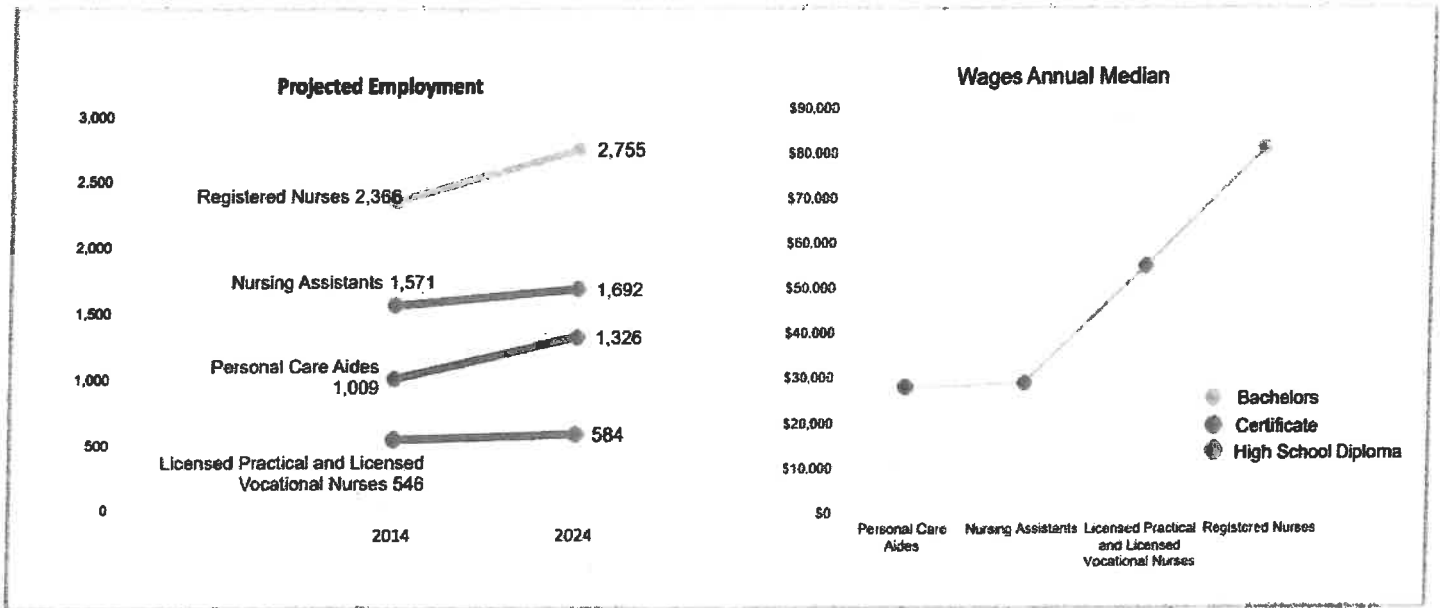
Which occupations offer a “career pathway” for workers to move to higher skills and wages, especially workers starting at entry-level?

The economy and needs of the region create a landscape for the following occupation-based career pathways:

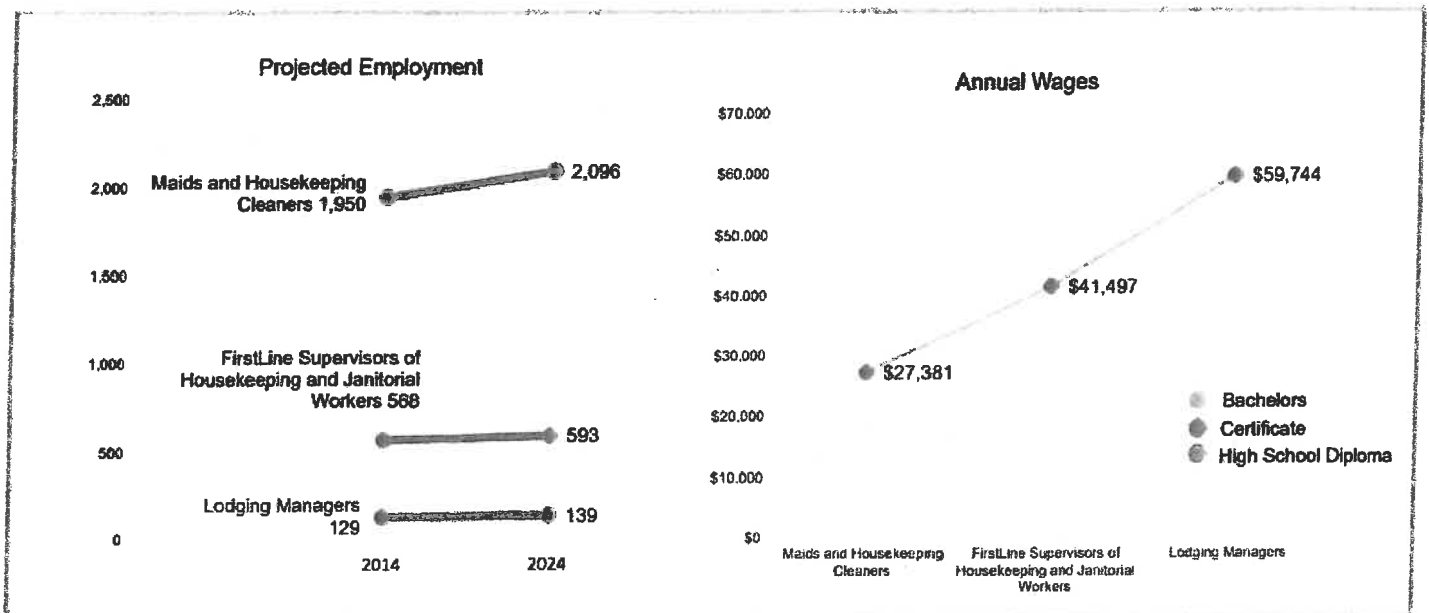
Education Pathways:



Nursing Pathways:



Hotel Career Pathways



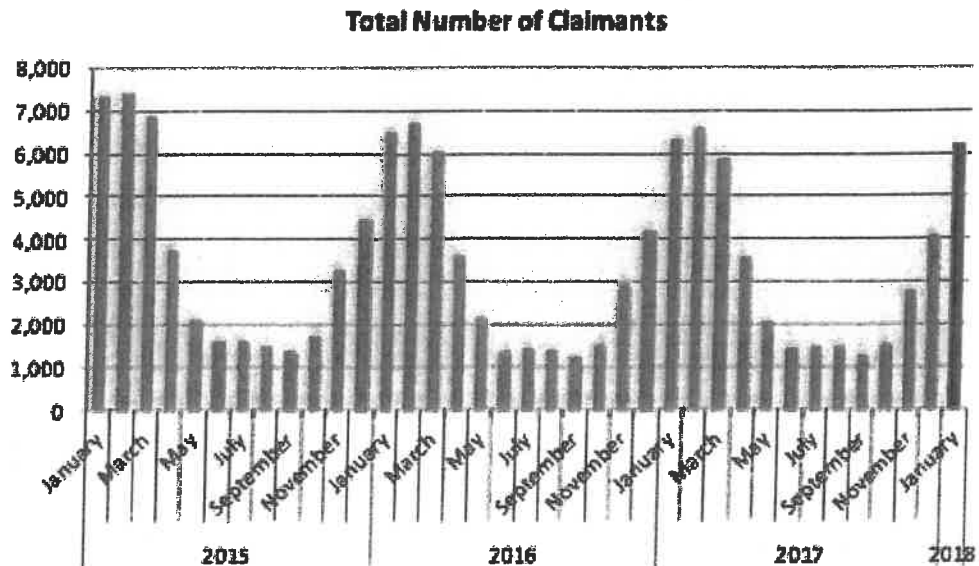
Workforce Supply: Labor Supply Challenges and Opportunities

Across the region, our labor supply is challenged by population shifts, specifically the impending mass retirement of older workers coupled with a lack of younger workers to replace them. Our workforce faces the additional challenge of not having room to grow due to lack of housing stock and wastewater treatment infrastructure. For this reason, our strategy incorporates bolstering these basic needs, as detailed later in this document.

The region has a labor supply opportunity as seen in shifts in the education pipeline in the region, with a 3% increase in graduates from certificate, associates, bachelors and post-bachelors programs. The largest proportion of these graduates have obtained Liberal Arts/Science, Naval Architecture and Marine Engineering, and Registered Nursing programs - the latter two of which are well aligned with our priority industries and Blue Economy strategy.

Based upon UI Claimant population, what is the region's largest supply of unemployed workers by job type?

Unemployment insurance claimants are reflective of the seasonality of work in the Cape and Islands region, both with respect to overall trends and the types of jobs. The most recent (January 2018) total number of UI claimants was 6,203, a near 400% increase from figures in September 2017. However, this is a predictable trend in unemployment for this region:



The most recent unemployment claimant figures list the largest numbers in the following occupations:

- Building and Grounds Cleaning and Maintenance (*n* = 1,577; 25% of total UI claimants)
- Food Preparation and Serving Related (*n* = 1,371; 22% of total UI claimants)
- Management (*n* = 816; 13% of total UI claimants)

These claimants are most often from the Accommodation and Food Services (NAICS #72), and Administrative and Support, Waste Management, and Remediation Services (NAICS #56) industries.

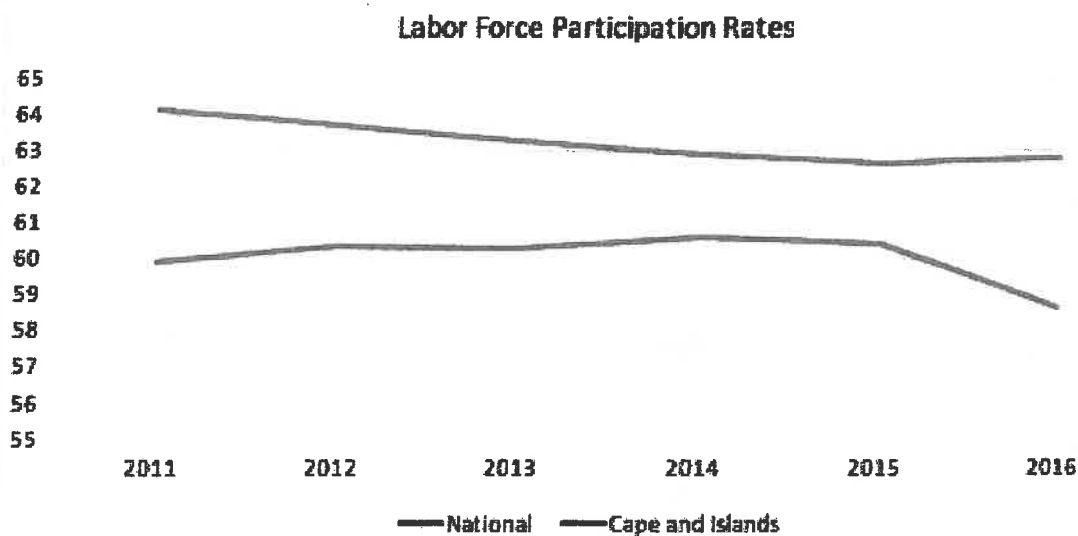
What are the characteristics of unemployed and under-employed workers in the region?

The characteristics of the unemployed and underemployed in the region are as follows:

- Age: During the off-season, workers ages 25 - 34 are the most represented ages bracket in UI claims. However, this changes during the summer months, during which time workers age 55 - 65 are the most represented age group.
- Educational attainment: Year round, individuals with a high school diploma or GED, followed by those with some college.

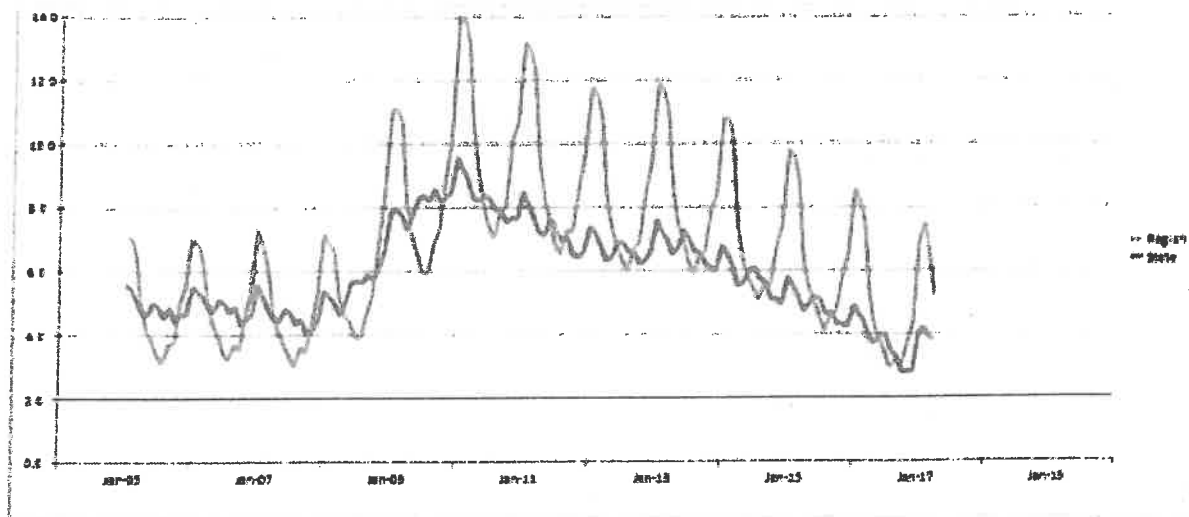
- **Wages:** claimants in the top two categories of occupations (Building and Grounds Cleaning and Maintenance, and Food Preparation and Serving Related) make on average between \$520.83 - \$562.26. This is slightly below the average of all claimants (\$657.56) and lower still than the average weekly wages of the region as a whole. It is important to note that these two categories of occupations together comprise nearly 50% of all UI claimants.

Regionally, the unemployment rate has decreased between 2011-2016 at a rate that is comparable with national figures⁶, however labor force participation rates have often diverged from national trends. A decrease in labor force participation indicates that there may be pockets of discouraged workers in the region.



One of the more notable characteristics of the region's workforce is the seasonality of unemployment trends, which follow the broad pattern of the state but season-to-season dip below or soar above state figures:

⁶ [Bureau of Labor Statistics](#)



Describe the universe of the region's existing pipelines of new workers (credentials) across public and private secondary and post-secondary institutions

The Cape and Islands is home to a number of secondary and post-secondary institutions that prepare students for a variety of careers in the region. There is diversity in the offerings of these schools, with programming that aligns both with our priority industries and occupations, as well as our Blue Economy Strategy, as indicated in the list below:

Secondary schools

- Upper Cape Cod Regional Technical High School
 - Offering programs in Horticulture and Landscape Contracting, Culinary Arts, Health Technology, Marine Technology
- Cape Cod Regional Technical School
 - Offering programming in Carpentry, Culinary Arts, Dental Assisting, Engineering, Health Technology, Horticulture, HVAC, Marine Services

Post-Secondary institutions

- Cape Cod Community College

- Offering Certificates in Administrative Assistance, Medical Coding, Billing, and Reception, Customer Service, Construction Management and Technology, Environmental Technology (various), Health Sciences (various), Horticulture
- Offering Associates Degrees in Administration, Business Administration, Education, Environmental Technology, Health Sciences, STEM fields
- Massachusetts Maritime Academy
 - Offering Bachelors and Masters of Science in Facilities Engineering, Marine Engineering, Marine Safety & Environmental Protection, Marine Transportation
- National Graduate School of Quality Management
 - Offering Bachelors and Masters of Science in Quality Systems Management, and Doctor of Business Administration

III. Where do we want to go?

<u>STATE CRITERIA</u>	<u>REGIONAL CRITERIA</u>
<ul style="list-style-type: none"> ➤ High employer demand ➤ High demand and high wage (4-5 Star Occupations) ➤ Talent Gaps (Ratio of Supply to Demand) ➤ Career Pathways 	<p>What additional criteria are important to your Regional Planning Team?</p> <ul style="list-style-type: none"> ➤ <i>"Good" employers, i.e. those that handle seasonality well and can make year-round jobs for our residents.</i> ➤ <i>Connected to the Blue Economy; both the needs of those employers and the needs of the industries that serve them.</i>

Priority Industries and Occupations

The Cape and Islands region has prioritized three of its largest and growing industries:

- **Hospitality** (NAICS Sector 72: Accommodation and Food Services)
- **Healthcare** (NAICS Sector 62: Health Care and Social Assistance)
- **Construction** (NAICS Sector 23: Construction)

The priority occupations are characterized by several factors:

- 1) they are among the top growing occupations in the region
- 2) each supplies multiple industries that are important to the region
- 3) each has potential to support the Blue Economy, through our tourism and marine industries.

- **Chefs and Head Cooks (SOC 35-1011)**

- Requires high school diploma or equivalent; **well matched to regional technical schools?**
- 5 star demand
- Supplies Accommodation and Food Service, the region's top growing industry between 2011-2016⁷ and a contributor to the tourism arm of the blue economy. Also supplies Arts, Entertainment, and Recreation.
- Career pathways to this occupation includes other five star demand occupations (cooks, food prep workers).

- **Healthcare Practitioners and Technical Occupations (SOC 29-0000) and Healthcare Support Occupations (SOC 31-0000)**

- Healthcare Practitioners and Technical Occupations (SOC 29-0000) supplies Health Care and Social Assistance which, while not related to the blue economy, is a basic need for any economy.
- **Licensed Practical and Licensed Vocational Nurses (SOC 29-2061).**
 - Requires post-secondary non-degree award, with clear pathways to advance education/credentials towards other 5 star occupations (registered nurses, medical and health services managers, healthcare social workers)
 - 5 star demand
 - Contributes to second largest regional industry⁸ (Education and Hospitals (Local Government)
- **Nursing Assistants (SOC 31-1014)**
 - Over supplied in the region but are also of 5-star demand.
 - The number of Nursing Assistants in the region represent a those on a pathway to other high-demand healthcare occupations.

⁷ Emsi Economy Overview, Q3 2017 Data Set

⁸ Emsi Economy Overview, Q3 2017 Data Set

- **Education, Training, and Library Occupations (SOC 25-0000)**
 - Specifically Preschool Teachers and Teaching Assistants
 - 5 star demand
 - There is a clear pathway as Teaching Assistants only require some college and Teachers require a postsecondary degree

- **Construction occupational groups**
 - Specifically Construction Laborers, Electricians, Plumbers, Construction and Building Inspectors, and Front-Line Supervisors of Construction Trades and Extraction Workers
 - Mix of requirements around training and education provide multiple points of entry to this pathway.
 - 5 star demand for all occupations, except Building Inspectors (4 star)
 - Supplies Construction, and Public Administration industries, which will support local hiring in future efforts to expand wastewater treatment

Assets

Our priority occupations share the same set of assets and gaps. The assets include, low barrier to entry (no age requirement or necessary credentials), year-round positions, strong growth rate, and the opportunity for advancement. However, the gaps present significant hurdles when considering how one might make a living. Low wages and hours outside of the regular work day are off putting to job-seekers, especially in combination with the high cost of living in the region and a lack of affordable housing.

Vision, Mission, Goals

Our regional partners are committed to promoting a thriving, sustainable, and vibrant economy in the Cape & Islands region. There will be opportunity and infrastructure to support a diversity of sectors and people of all educational/income levels.

One of the important themes within the regional planning sessions was the shared commitment across multiple sectors and types of partners to economic diversity in the region. Rising housing costs pose a serious threat to such diversity, and the workforce and economic development expansions are limited by the absence of affordable housing. Development of more affordable housing is strictly constrained by our limited wastewater treatment capacity, as well as local zoning regulations. These issues emerged again and again, and our vision statement is intended to highlight our shared commitment to addressing these systemic issues in service to both the overall quality of life in our region as well as the critical worker shortages faced by our business communities.

Mission: The Cape and Islands Workforce Development Board Regional Planning Team facilitates shared goal setting and strategic coordination of efforts for those working to ensure the continued health of the local economies of the Cape and Islands regions.

Each of the three sectors (workforce development, economic development and education) has a unique role to play in advancing our shared goals and fulfilling our mission. This is the way that the regional actors have agreed to organize our work so that it remains complementary and synergistic.

Mutually Reinforcing Activities

The Cape and Islands WorkSmart Partnership* has multiple players working toward the same goal.

Economic Development

Ensuring that business growth for all businesses (startups through large employers) is supported by the availability of needed additional supports (e.g. affordable housing)

Education

Education partners are focused on building nimble systems to provide fast and relevant preparation informed by employer demand in priority industries.



Workforce Development

Coordinating the mutually reinforcing activities, providing direct training programs and supporting collaborative fundraising to initiate new credentialing programs

*working title.

IV. How do we get there? Describe the strategies you will jointly employ to align the work of multiple systems around your shared vision, mission, and goals.

Shared Strategies: While each system may make changes in individual programming to align with the region's priorities, all systems will need to commit to shared changes in the following areas, stated below. Describe how your region will work collaboratively in the following two areas.

The Cape & Islands Strategy: We define strategy as the way we approach our work to achieve our goals. Strategy helps us decide between multiple pathways to the same end point; and then helps to keep everyone aligned on that pathway. Our strategy is to grow and sustain our local workforce through the coordinated, organized, and collaborative work of the Work Smart Partnership.

- 1. Continuous Communication.** How often and in what way will you meet to review progress towards shared goals and make course corrections?

The WorkSmart Partnership (WSP) is the working group established to support the strategy the planning team established. Their role is to progress the work laid out in this plan. As such, they are consistently working in and across the partnership as well as hosting quarterly convenings. The convening's agenda has three main components:

- 1. The Quarterly Report**

- a. Highlights & Accomplishments
- b. What went well & why
- c. What has changed in the past 3 months that we should consider?

- 2. Coordinating Existing Activity**

- a. Visit each one of the goals and their strategies. What is currently being done and what are next steps?
- b. What will begin next quarter?
- c. Next time we meet what will we have accomplished?

3. Additional ideas and actions we should consider

- a. What efforts should we be involved with?
- b. What should we bring to the attention of the state?

2. Shared Measurement Systems. What data and measurement systems will you rely on to support shared understanding of how well you are meeting your goals and making progress towards a shared vision?

We will be working collaboratively to ensure that our data and our data systems serve our shared goals. For the current year, we are tracking data from the State and from our partner sources, specifically:

- A. Leading indicators of the availability of a prepared workforce:
 - Track enrollment and graduation rates of vocational technical programs, community college system, and other training programs
 - Business utilization rates for the Career Center
 - Career Center/WIOA partner performance data (number of businesses served, job orders, job referrals, and hiring)
- B. Lagging indicators of meeting employer demand for workers:
 - Employer vacancy rate by industry
 - Supply/demand ratio

Additionally, we know that there are systems which will support the expansion of the supply of affordable housing, which is absolutely critical to our success. In this area, we are jointly tracking:

- A. Leading indicators of the increased availability of affordable housing:

- Meetings and other outreach to municipal officials regarding zoning relief
- Continued support and fundraising for wastewater treatment facilities
- Exploration among partners of innovative solutions (e.g. using Mass Maritime dormitories for seasonal worker housing, co-investment among partners in supporting new development projects)

B. Lagging indicators of sufficient stock of affordable housing:

- Reports from employer partners about the challenges facing their workers
- Average housing prices
- Percent of income spent on housing for low-wage workers

Other Shared Strategies

With the launch of the WorkSmart Partnership (successor to the Regional Planning Team), the regions actors in the areas impacted by this plan have agreed to the following three strategies to advance their shared goals:

1. Continued and expanded coordination of existing activity by each partner (share resources and info).
2. Identifying ideas which are successful and replicable and sharing them with partners across the state; seeking to join other planning teams in advancing them together (especially within areas requiring or improving with state policy changes).
3. Collaboration on fundraising proposals, specifically for a) training initiatives, b) wastewater treatment facility developments and c) affordable housing supply expansion initiatives.

Cape & Islands Regional Goals and Objectives: 2018 - 2024

In the three tables below, we have outlined our regional goals for the next six years. These goals reflect the workforce needs of our region, and address the opportunities and challenges therein. However, while the members of our WorkSmart Partnership group

agreed that the following issues were critical to the stability and vitality of our workforce, they did not belong in the goals section:

1. Make the Cape & Islands a hospitable and affordable region; where cost of living is aligned with the annual earnings in our priority industries and occupations.
2. Solutions to the lack of wastewater treatment.
3. Encouraging and supporting growth in the Blue Economy.

While these urgent issues are not reflected in our goals it is worth noting that there is a considerable effort being put toward addressing them as a crucial part of the region's overarching strategy.

Members of the WSP have a strong grasp on the policies, practices, and regulatory issues which are impeding the development of affordable housing, adequate wastewater treatment and other infrastructure (e.g. transportation) which are necessary to support a larger number of workers earning moderate and middle incomes in the region. They are working to advance smarter policies in these areas through coordinated action at the municipal and state levels.

Members of the WSP have also engaged in strategies to support growth in the Blue Economy. The partners are working together to identify regional needs and career trajectories based on anticipated growth, while taking into consideration what effects climate change will/is having on the workforce needs of the region.

WorkSmart Partnership 2018 Goals	
Goals: The high-level things we want to accomplish, internally and externally, in the process of carrying out our mission.	Objectives: Our mid-sized, concrete accomplishments that keep us on track to accomplishing our goals.
Strategy Matters will support continued alignment between goals and action while measuring progress	<ul style="list-style-type: none"> • Create a dashboard/scoreboard of our leading and lagging indicators • Work with our co-chairs to appoint a data team with representatives from workforce development, education, and economic development to contribute

	meaningful data to dashboard/scoreboard in partnership with the Chamber of Commerce and the state
As the convener, the CIWDB will consistently communicate and create synergy between our workforce development, education, and economic development partners.	<ul style="list-style-type: none"> • Create a system for continued engagement with our business community • Invite potential partners and collaborators to our WorkSmart Partnership meetings • Provide updates via our monthly newsletter
Assess our regional education/training capacity to meet the needs of the local economy while supporting the retention of young people. Led by co-chair Bob Dutch, in partnership with the CIWDB, to be reviewed by the WSP.	<ul style="list-style-type: none"> • Complete a comprehensive scan of local educational institutions to understand capacity of regional graduates. • Conduct a comprehensive review of availability and usage of Work Based Learning Opportunities aligned with priority industries (Healthcare, Hospitality, Services to Buildings and Dwellings) and the Blue Economy • Identify leverage points, for example: <ul style="list-style-type: none"> ◦ Degrees and certifications contributing to any labor surpluses ◦ Degrees/certifications aligned with labor shortages ◦ Institutions or degrees with large proportions of students migrating out of the region

WorkSmart Partnership 2020 Goals	
Goals	Objectives
Improve our region's capacity to support the retention of young people by	<ul style="list-style-type: none"> • Our business partners will identify programming which helps them find talent and train or retrain employees

improving on existing opportunities and creating new structures.	<p>(workshops and training, mentor programs, job seeker resources, and retiree recruitment). The WSP will work to implement more of this programming.</p> <ul style="list-style-type: none"> • Implement 13th year program for non-college bound high school students at UCT. The 13th year extends their education and provides training to meet our regional needs. Bob Dutch, Superintendent is leading this effort and will involve staff and advisors as is helpful / appropriate.
The WSP will action plan to coordinate activity, based on preliminary assessment findings, that will support participation in regional economy by local graduates. The objectives under the action plan will largely fall to our education partners with support from the CIWDB and Economic Development.	<ul style="list-style-type: none"> • Expansion of the co-op education model where students graduate with OTJ experience and relationship with local employer(s). • Work with education partners to expand work based learning opportunities in high priority industries, leveraging the employer partners in WorkSmart as ambassadors and champions. • Provide technical assistance to local businesses on starting and maintaining work based learning opportunities, with attention to the substantial number of small businesses and sole proprietor operations. • Survey high school and college students to determine what incentives would entice them to stay in the area. Collaborate with local businesses to assess feasibility and implementation.
Present assessment of regional education/training capacity to develop an action plan to address current gaps or underutilization of existing programs	<ul style="list-style-type: none"> • Our education partners at Upper Cape Tech and Cape Cod Community College will lead this effort (eg. creating/expanding current programming, improved marketing to businesses, schools, and/or students).

WorkSmart Partnership 2022 Goals	
Goals	Objectives

<p>The WSP, under the leadership of the CIWDB will lead the implementation of the action plan for the retention of our young people while reducing vacancies in priority industries.</p>	<ul style="list-style-type: none"> • Create a timeline to support the action plan complete with a both a meeting and reporting schedule • Create WSP subgroups to organize around and address each area of the action plan • Establish appropriate metrics of success and how we will measure them
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Mutually Reinforcing Activities:

1. **Education.** Describe the changes in programming, recruitment, retention and placement strategies, assessment, tracking, or other strategies specific educational partners have committed to in order to meet shared regional goals.

Co-Chair: Bob Dutch, Superintendent, Upper Cape Cod Regional Technical School

Our education partners are focused on building nimble systems to provide vast and relevant preparation, informed by employer demand in priority industries. They will do this through the establishment and growth of training programs and partnerships with local businesses. This dual prong strategy of growing programs, like HVAC and Nursing & Allied Health at UCT, and establishing new learning opportunities, like implementing a 13th year program for high school graduates seeking a learning experience that will connect them to a job, reflect the ability of our region to make meaningful change and long-term impact using our existing resources.

2. **Workforce Development.** Describe the changes in programming, employer relations, recruitment, retention and placement strategies tracking, or other strategies specific workforce development partners have committed to in order to meet shared regional goals.

Co-Chair: David Augustinho, Executive Director, Cape & Islands Workforce Development Board

Our Workforce Development partners will coordinate the mutually reinforcing activities happening in the region; providing direct training programs, and supporting collaborative fundraising to initiate new credentialing programs. They are the link between our education and economic development partners.

3. **Economic Development.** Describe the changes in economic development strategy that economic development partners have committed to in order to meet shared regional goals.

Co-chair: Wendy Northcross, CEO, Cape Cod Chamber of Commerce

The responsibility of our Economic Development partners is to ensure that business growth, for all businesses, is supported by the availability of needed additional supports. They will make sure that the conditions surrounding employment, such as sustainable and affordable housing, are in place.

V. Conclusion

This strategic planning process has been a galvanizing effort and an effective opportunity for the Workforce Development Board, as well as our partners in Education, and Economic Development to share and coordinate their work. We look forward to further planning, and infrastructure building for the work ahead of us.

A key component of our success as a region is to insert ourselves in conversations regarding development and education in this region with a workforce development lens. For instance, we will be key players in the development of solutions to our waste water issues. These solutions will allow us to solve other problems such as the lack of affordable housing on the Cape and Islands, which will attract a more diverse and long-term workforce. Luckily, we are in a position to leverage interest and investment in the Blue Economy to forward the conversation on water quality and housing.

ATTACHMENT M1

WIOA - LOCAL AREA FY2019/FY2020 PROPOSED PERFORMANCE GOALS REQUEST FORM

CONTACT PERSON / EMAIL:		Kristina E. Dower, kdower@masshire-capeandislands.com			
WORKFORCE BOARD NAME:		MassHire Cape & Islands Workforce Board			
		<input checked="" type="checkbox"/> Accept Statewide Goals FY2019		<input checked="" type="checkbox"/> Accept Statewide Goals FY2020	
A PERFORMANCE MEASURE	STATE		LOCAL AREA		E FY 2020 PROPOSED LOCAL GOAL
	B FY 2019 STATE GOAL	C FY 2020 STATE GOAL	D FY2019 PROPOSED LOCAL GOAL		
WIOA ADULT MEASURES					
Employment Q2	86.0%	86.5%	86.00%		86.50%
Employment Q4	78.0%	78.0%	78.00%		78%
Median Earnings Q2	\$5,200	\$5,300	\$5,200		\$5,300
Credential Rate	71.0%	72.0%	71.0%		72.0%
WIOA DISLOCATED WORKER MEASURES					
Employment Q2	86.0%	86.0%	86.0%		86.0%
Employment Q4	85.0%	85.0%	85.0%		85.0%
Median Earnings Q2	\$7,700	\$7,800	\$7,700		\$7,800
Credential Rate	60.0%	62.0%	60.0%		62.0%
WIOA YOUTH MEASURES					
Employment/Education Q2	80.5%	81.0%	80.5%		81.0%
Employment/Education Q4	73.0%	73.5%	73.0%		73.5%
Median Earnings Q2					
Credential Rate	70.5%	70.5%	70.5%		70.5%

If requesting a goal other than the State goal, local areas must provide a justification with evidential data.

Submit by email to Lisa.J.Caissie@mass.gov

Workforce Innovation and Opportunity Act

Cape & Islands Workforce Development Board, WIOA Required and non-Required

Partners Umbrella Memorandum of Understanding (MOU)

I. PURPOSE

This Memorandum of Understanding (MOU) communicates the agreement developed and executed between the Cape & Islands Workforce Development Board, with agreement of County Commissioner Mary Pat Flynn (the Chief Elected Official), the OSCC Required Partners (the Partners), other non-required Career Center Partners, and the local OSCC (Career Opportunities) relating to the operation of the one-stop delivery of service in the local workforce area.

The Cape & Islands Workforce Development Board will act as the convener of MOU negotiations and together with the OSCC Required Partners will shape how local One-Stop Career Center Services are delivered.

This MOU defines the roles and responsibilities of the OSCC Required Partners to operationalize the delivery of services necessary to produce the best possible outcomes for shared customers – youth, job seekers and businesses.

II. OSCC REQUIRED PARTNERS

In accordance with WIOA Section 121(c), this Local Memorandum of Understanding has been developed and executed with agreement of the Chief Elected Official of the Cape & Islands WDA, the Cape & Islands Workforce Development Board and the Workforce Innovation and Opportunity Act (WIOA) OSCC Required Partners as defined by WIOA in WIOA Regulations 20 CFR Part 678.400 as mandatory Partners in the One-Stop Career Centers and include:

1. **The Adult Program** (Title I), as part of the Department of Career Services (DCS), Executive Office of Labor and Workforce Development (EOLWD);
2. **The Dislocated Worker Program** (Title I), as part of DCS/EOLWD;
3. **The Youth Program** (Title I), as part of DCS/EOLWD;
4. **The Adult Education and Family Literacy Act Program** (Title II), as part of Adult and Community Learning Services (ACLS), Department of Elementary and Secondary Education (DESE) Executive Office of Education (EOE);
5. **The Wagner-Peyser Act Program** (Wagner-Peyser Act, as amended by Title III), as part of DCS, EOLWD;
6. **The Vocational Rehabilitation Program** (Title I of the Rehabilitation Act of 1973, as amended by Title IV), as part of the Massachusetts Rehabilitation Commission (MRC) and Massachusetts Commission for the Blind (MCB), Executive Office of Health and Human Services (EOHHS);
7. **Federal-state unemployment compensation program**, as part of the Department of Unemployment Assistance (DUA), EOLWD;

8. **Trade Adjustment Assistance for Workers Programs** (Activities authorized under chapter 2 of Title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.)), as part of DCS, EOLWD;
9. **Jobs for Veterans State Grants Program** (Programs authorized under 38, U.S.C. 4100 et. seq.) as part of DCS, EOLWD;
10. **Temporary Assistance for Needy Families Program** (42 U.S.C. 601 et seq.) as part of Department of Transitional Assistance (DTA), EOHHS;
11. **Employment and Training Programs under the Supplemental Nutrition Assistance Program**, (Programs authorized under section 6(d)(4) of the Food and Nutrition Act of 2008 (7 U.S.C.2015(d)(4)), as part of DTA, EOHHS;
12. **Senior Community Service Employment Program** (Programs authorized under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.))

Additional non-required Partners:

1. The Mashpee Wampanoag Indian Tribe
2. The Lower Cape Outreach Council

WIOA MANDATED PROGRAMS	REGIONAL ORGANIZATION/MOU PARTNER
WIOA Title I Adult WIOA Title I Dislocated Worker WIOA Title I Youth	Career Opportunities
WIOA Title III Wagner-Peyser Veterans' WIOA Program UI Trade Adjustment Assistance	Career Opportunities/DUA Staff at Career Opportunities
WIOA Title II Adult Education and Literacy	Cape Cod Community College - Adult Education Center
WIOA Title IV Vocational Rehabilitation	MRC, MCB
SCSEP	Cape Cod and Islands Elder Services, Inc.
TANF & SNAP	Local DTA Office
NON-REQUIRED PARTNERS	
Native American Programs	Wampanoag Tribe of Mashpee
CBO	Lower Cape Outreach Council (Hope Works)

III. DURATION OF THE MOU

WIOA Section 121(c) (g) requires that the MOU shall be reviewed not less than once every 3-year period to ensure appropriate funding and delivery of services, also including effectiveness of the programs, and physical and programmatic accessibility. WIOA Regulations Subpart C 20 CFR Part

678.500 further requires MOU renewal following the 3-year review if substantial changes have occurred.

This agreement shall commence on July 1, 2017 and shall terminate on June 30, 2020, unless otherwise terminated by agreement of all parties or superseded.

IV. ASSURANCES

The Cape and Islands WDB and the OSCC Required Partners and non-required Partners agree to conduct the following activities at a local level:

1. Enter into a local MOU with the Cape & Islands Workforce Development Board relating to operation of the one-stop delivery system.
2. Participate in the operation of the one-stop delivery system consistent with the terms of this MOU, the requirements of WIOA, and the requirements of Federal laws authorizing the partner programs and activities.
3. Define “shared” customers between Partners to create a clear understanding of how multiple providers, services and resources should support youth, job seekers, and businesses.
4. Redesign the One-Stop Career Center customer flow and service practices across partner agencies, including ensuring the accessibility and availability of services to “shared” customers.
5. Utilize robust technology tools to scale-up practices and provide more significant supports for individuals with barriers to employment, including basic skills assessment, remediation, and career development tools.
6. Track and evaluate the outcomes for individuals who face barriers to employment using the Massachusetts One-Stop Employment System – MOSES.
7. Use a portion of the funds available for programs and activities to maintain the one-stop delivery system, including infrastructure and shared costs of One-Stop Career Centers, through methods agreed upon by the Local Board, Chief Elected Official, and Partners. If no consensus on methods is reached, the Governor, after consultation with the Chief Elected Official, Local Board, and State Board shall determine the portion of funds to be provided (WIOA sec. 121(a) (h) (1) (C)).
8. Provide representation on the local workforce boards to the extent possible and/or participate in Local Board ad hoc activities/events or on standing committees.
9. The MOU will be reviewed, and if substantial changes have occurred, renewed, not less than once every 3-year period to ensure appropriate funding and delivery of services. The MOU must be updated to reflect any change in the One-Stop Partner infrastructure cost contributions.

V. MEMORANDUM OF UNDERSTANDING CONTENT

Please include a description of the following:

1. A description of the process to develop an MOU, career pathway models for populations, and shared customer definitions.

The Cape and Islands WDB convened a meeting of all of the required and non-required partners enumerated above, to discuss the needs of each agency related to shared customer activity through Career Opportunities. WIOA requires core partners to align, connect, and integrate services by sharing resources and jointly designing services in ways to improve outcomes for shared customers. A shared customer is someone who will benefit from services and resources delivered from multiple WIOA Partner programs, that are aligned to meet the needs of the job seeker.

It was then necessary for The WDB and Career Opportunities to met individually with each required and non-required partner enumerated above as it was at this meeting further individualized collaborations were outlined. For example, both DTA and SCSEP both have interns onsite at Career Opportunities which allow for integration at the career center, as well as job placement. ABE is also onsite at Career Opportunities as this is an example of how partner agencies can work together to ensure a shared customer receives the career center services leading to employment. The Cape & Islands WDB then presented to the partners a draft MOU for final comments and signature.

Career pathways have been established at Career Opportunities based on our regional blueprint (2013-2017). The following sectors are priority career path choices in the regional economy; health care, construction, technology and professional services, hospitality, and marine sciences. The Business Service unit at Career Opportunities is well versed on the regional blueprint, and has developed strong employer partners within each sector. Creating these linkages has been vital for hiring events such job fairs.

Each Partner will make available to customers their core services and meet their responsibilities as outlined in 20 CFR § 662.230. Each Partner will maintain its own decision-making on their respective programs and service. Each Partner remains an autonomous agency and maintains its own identity, budget, and responsibility for its actions. Each Partner's role is to refer customers to the appropriate entity for service determination and delivery, to share data and information across the regional partner network, and to maintain a high level of commitment to serving shared customers.

Shared customers to be referred to Career Opportunities will be identified by each partner based on articulated criteria developed between the WDB, Career Opportunities and each partner agency. Enrollment and assessment at Career Opportunities will proceed as demonstrated in the accompanying Job Seeker Customer Flow Chart.

Some partners may choose to out station employees at Career Opportunities, for example the Adult and Community Learning Center will have an employee at Career Opportunities for 3 hours per week. Additionally, DTA, MRC and DUA also have an onsite presence at the career center. While this is not a required activity, partners are encouraged participate directly at Career Opportunities to facilitate the identification and tracking of shared customers.

2. A description of the priority populations identified by the MOU Partners:

Services provided to job seekers under title I of WIOA can be viewed as a pathway to the middle class and a way to maintain and build skills. WIOA focuses on serving individuals with barriers to employment. WIOA priority of service and special populations include: Unemployment insurance claimants; low-income adults including TANF and SNAP recipients; homeless; Adult Education participants (Title II); individuals with disabilities (Vocational Rehabilitation Title IV); Veterans; older workers; re-entry populations; and, youth, including youth with barriers to employment; members of the Wampanoag Tribe who have barriers to employment are all priority populations in the region. Other priority populations may be identified as the partners work together in the region, including eligible migrant and seasonal farmworkers (as defined in WIOA sec. 167 (i) (1-3).

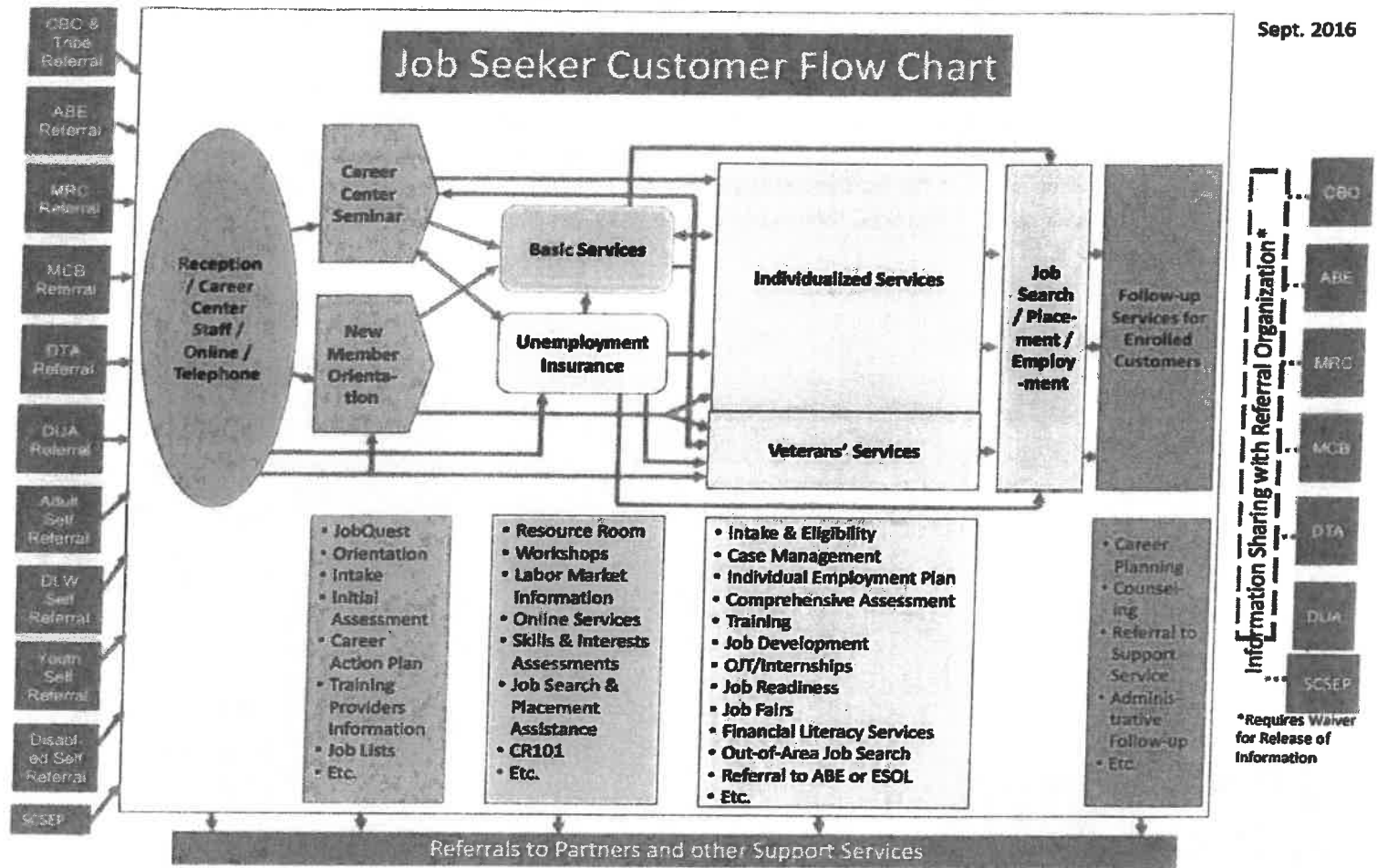
WIOA establishes a priority of service requirement with regards to funds allocated to local areas for adult employment and training activities. Priority must be given to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient, this also includes English language learners. It is important to note, that there are no restrictions for basic career center services, these services are available to all adult job seekers.

Veterans, and their eligible spouses also receive priority of service for all DOL-funded job training programs, which do include WIOA programs. Veterans also receive priority of service for basic career center services as well, including participation in workshops.

We feel can we meet the needs of our priority populations with the strong onsite presence of our shared partners at Career Opportunities, as well as with quarterly meetings with the MOU partner team. Through collaborative communication and if needed enrollment into an individualized service at the career center, this type of service would allow for case management services which would be documented in MOSES. All shared customers who are enrolled as universal access members within the career center system, are monitored via the MOSES system. This also allows for notes and additional documentation if needed to benefit the job seeker.

3. A description of the continuum of services available for each priority population in the local workforce area based on a customer-centered design or career pathway model. Include a map for customer flow across MOU partners for each priority population.

- a. Referring Partners will identify shared customers based on agreed upon profiles to be developed. There is no universal definition of shared customers, each partner will work with the WDB and Career Opportunities to develop the profiles. The chart below details the services for all shared customers referred to Career Opportunities. Shared customers, who have been referred from our partner organizations will have the opportunity to become members of Career Opportunities. They will be universal access member, which allows for tracking and documentation in MOSES. By becoming a universal access member, the shared customer, now has access to a variety of services including access to the resource room, online services, as well as job search assistance.
- b. A referral form will be developed by the partners. It is anticipated that in the future the Commonwealth will develop an online tool to provide for sharing of enrollment data between partners, this region will implement the use of online tools as they are developed.

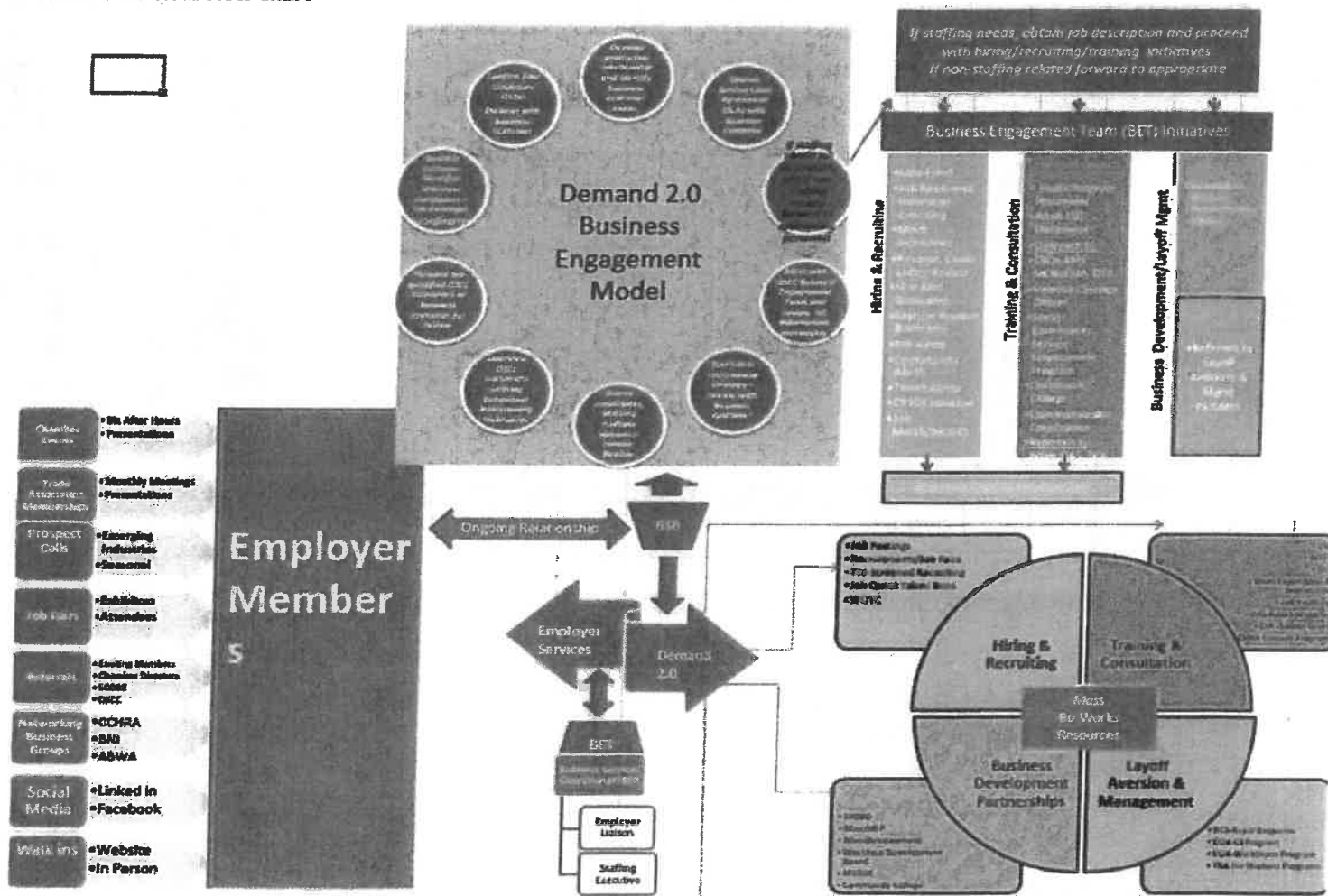


Shared services include but are not limited to:

- Intake & Orientation:
- Career Assessment:
- Career Planning:
- Career Readiness /Training/Education:
- Job Search Assistance:
- Case-management:
- Data/Performance Tracking:

- A description of the continuum of services available for businesses in the workforce area based on a customer-centered design or career pathway model. Include a map for the business customer flow across MOU partners in the local area.

Business Services Flow Chart



- The Career Opportunities Center is equipped with Assistive Computer Programs such as JAWS, Dragon Naturally Speaking, ZoomText and Open Book. These programs can assist people with vision impairment, the blind, the deaf and hard of hearing, as well of individuals with mobility

limitations. All shared customers referred to Career Opportunities will have access to all technology available at the Center including but not limited to:

- **Jaws** – offers comprehensive screen reading capability for people who are blind or visually impaired.
- **Dragon Naturally Speaking** – allows you to talk to your computer rather than typing. As your words are transcribed onto the screen and into your documents. This is helpful to individuals who are deaf or hard of hearing.
- **ZoomText** – is a powerful computer access solution for the vision-impaired individuals. ZoomText allows you to see and hear everything on the computer screen, providing complete access to applications, documents, emails and the internet.
- **OpenBook** – Is a software program that transforms the personal computer and scanner into a full-featured reading machine. You can scan books, letters, etc, and let OpenBook read that page aloud to you.
- **TTY Machine** – available. Assistive Listening Devices FM Receiver for those wishing to attend workshops and other classes.

6. Data Sharing for Integrated Service Delivery for Shared Customers:

Subject to applicable legal constraints, including but not necessarily limited to those contained in G. L. 151A and 20 C.F.R. Pt. 603, the parties of this MOU agree to seek increased sharing of data with a view to improving the quality of service-delivery to both job-seekers and business-customers. The Party whose data is requested to be shared shall be the judge, in its sole discretion, of the legal constraints governing whether and how its data may be shared. The parties of this MOU understand that a shared data system is being designed at the state level and will fully support the development and implementation of a state-level data system, subject to the foregoing limitations.

7. Staff development will be individualized with each partner and will provide at a minimum:

Working knowledge of the enrollment process and the services available at Career Opportunities

Working knowledge of the enrollment process and services at each partner agency

Working knowledge of the profile of agency customers to facilitate the identification of shared customer characteristics

Familiarity with referral forms developed to facilitate the movement of shared customers

Partners will have the opportunity to present to Career Opportunities staff information unique to their customer population so that Career Opportunities staff can effectively serve the partner's customers. For example, MCB staff is currently working with Career Opportunities staff to demonstrate effective methods to interface with MCB clients

Staff training and development to integrate the various MOU partners into a regional service delivery system

8. Assurances of participation of the OSCC Required Partners in the competitive selection process for the One-Stop Career Center lead operator in the local workforce area.

Required partners in the Cape and Islands Workforce Development Board region serve as members on the Board of Directors. Through their attendance at meetings, all required partners participate in the Career Center Operator selection. Several of the required partners also served on the selection committee for the operator.

9. Funding for Shared and Infrastructure Costs of the OSCC:

The Parties of this MOU agree that all required partners have a joint funding responsibility to support and maintain an effective local integrated service delivery system. In addition, all parties to the MOU recognize that shared and infrastructure costs are applicable to the all required Partners. To ensure that the Local Board and all the required local Partners can focus on the provision of quality services to our shared customers, the State Level Partners will issue allocations for shared and infrastructure cost to the Local Workforce Area. State Partners will establish a methodology that will ensure costs are allowable, reasonable, necessary and allocable. As appropriate, State Partners will enter into Inter-agency Service Agreements (ISAs) with the Department of Career Services (DCS), the designated State Workforce Agency (SWA) to issue the local allocations. Local Boards will ensure all allocations are incorporated into the local integrated budget during the annual planning process.

10. PERFORMANCE MEASURES

The Cape & Islands Workforce Development Board in agreement with the MOU Partners agrees to jointly review the WIOA mandated performance metrics for the workforce areas or metrics as negotiated as part of any shared and infrastructure contract costs between a Local Board and the mandated One-Stop Career Center partner, including incentives and penalties. The career center can develop a report to monitor the spending of all partner agencies.

VIII. SIGNATORIES

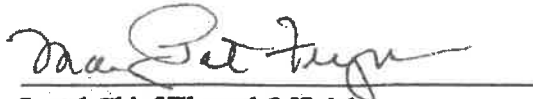
By signing this agreement, all parties agree to the provisions contained herein are subject to all applicable, Federal, State, and local laws, regulations and/or guidelines relating to nondiscrimination, equal opportunity, displacement, privacy rights of participants, and maintenance of data and other confidential information relating to One-Stop Career Center customers.

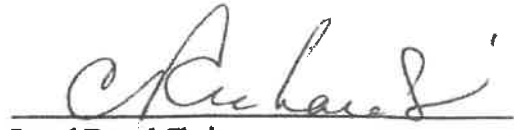
By signing the MOU, all Parties agree to reviewing and modifying the local MOU on an as needed basis to ensure further development and alignment with local area priorities and strategies to serve shared customers as well as to update the MOU to satisfy all requirements as identified by WIOA.

MOU Signature Page:

By signing the MOU, all Parties agree to reviewing and modifying the local MOU on an as-needed basis to ensure further development and alignment with local area priorities and strategies to serve shared customers as well as to update the MOU to satisfy all requirements as identified by WIOA.

By signatures affixed below, the parties specify their agreement:


Local Chief Elected Official
Mary Pat Flynn

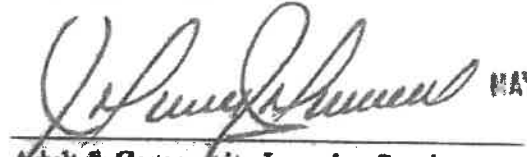

Local Board Chair
Christopher Richards


Local Board Executive Director
David Augustinho

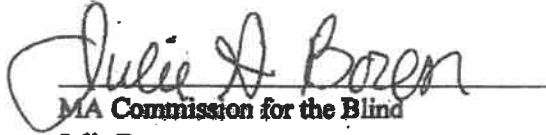

Local Career Center Lead Operator
Kristina Dower


DCS Operations Manager
Michael Swaney


DUA Representative
Wendy Savary



Adult & Community Learning Services
Jhon Valencia MAY 10 2018


MA Rehabilitation Commission
Leigh Coluppy 5/8/18


MA Commission for the Blind
Julie Boren


MA Department of Transitional Assistance
Peter Danzell


Senior Community Service Employment Program
Leslie Scheer


Lower Cape Outreach Council
Diane Casey Lee


WIOA Program Manager Mashpee Wampanoag Tribe
Marnell Cash 5/4/2018

III. Procurement and Contracting Manual for Goods and Services

Updated January 2018

TABLE OF CONTENTS

	Page
Introduction	1
I. Ethical Procurement Practice	2-4
II. Procurement Threshold Levels for Goods and Services	4-5
III. Competitive Procurement.....	5-7
IV. Non-Competitive Procurement	7-11
V. Development of A Procurement Plan	11-15
VI. Development of Formal Solicitations and the Statement of Work	16-33
VII. Contracting Overview	33-36
VIII. Contract Monitoring Negotiation and Award Procedures	36-40
IX. Contract Administration	40-45
X. Contract Monitoring	45-48
Attachments	49-252

INTRODUCTION

The purpose of this document is to provide a statement of the Job Training and Employment Corporation's policy governing the procurement of employment and training and non-employment and training services including the preparation, issuance and administration of procurements under the Workforce Innovation and Opportunity Act; OMB Circular on Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; and Mass Workforce Policy Issuances.

These policies also apply to procurement transactions funded by any awards from the Department of Career Services and the Commonwealth Corporation(CommCorp).

These policies do not apply to procurement funded through JTEC's own funds or through funds from other non-federal grants (other than those noted above) or donations. In the case of other non-federal grants, the granters procurement rules will apply. In the case of donations, the donors procurement rules will apply. In cases where non-federal granters and donors do not have procurement rules, JTEC will use sound business practices to purchase goods and services.

I. ETHICAL PROCUREMENT PRACTICES

It is the intent of the JTEC staff, members of the JTEC Board of Directors, and members of the Cape and Islands Workforce Development Board to ensure that all procurements are processed ethically: providing fair and equitable treatment of contractors and prospective contractors while ensuring that staff, JTEC Board members, and WDB members remain impartial without real or perceived preferential treatment for anyone/organization.

A. Conflict of Interest

It is the intent of JTEC, its' Board of Directors, the Cape and Islands Workforce Development Board and its members, to maintain policy and procedural guidance to avoid and protect against actual, real or apparent, and structural or organizational, conflict of interest in the conduct of procurement transactions.

1. No employee, officer or agent of JTEC, its' Board of Directors, the Cape and Islands Workforce Development Board, or its staff or members, shall participate in procurement activities resulting in the selection or award of contracts where a real or apparent conflict of interest would be involved. This includes discussion, review and/or voting on the selections, or in the award or administration of a contract supported by Federal or State funds. Such a conflict would arise when:
 - a. the employee, officer or agent,
 - b. any member of his immediate family,
 - c. his or her partner, or
 - d. an organization which employs, or is about to employ, any of the above, has a financial or other interest in the organization selected for award.
2. Employees, officers or agents of JTEC, its Board of Directors, the Cape and Islands Workforce Development Board or its staff or members will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to sub-agreements.

An employee, officer or agent of JTEC, its Board of Directors, the Cape and Islands Workforce Development Board or its staff or members may accept

an unsolicited gift of no more than a \$50.00 value.

3. In order to safeguard against structural or organizational conflict of interest, to prevent an organization which employs, or is about to employ any of the above parties, or otherwise interested parties from inappropriately participating in a procurement transaction, the JTEC Employee / Board Member Conflict of Interest Policy Statement (Attachment A) is reviewed and signed by all JTEC employees at their orientation meeting and is reviewed and signed by all JTEC Board members at the time of their appointment to the Board. The Cape and Islands Workforce Development Board Conflict of Interest Policy Statement (Attachment B) is signed by all Cape and Islands Workforce Development Board staff at their time of hire and signed by its members at the time of their appointment.
4. All JTEC and Cape and Islands Workforce Development Board staff assigned to work on a procurement with the Cape and Islands Workforce Development Board or Cape and Islands Workforce Development Board Evaluation Committee are also required to sign the Evaluation Committee Conflict of Interest/ Non-Disclosure Statement (Attachment C) when they participate in the planning and evaluation of a specific solicitation. If, once proposals are received, a member of the committee evaluating the submission believes he/ she may be in conflict of interest, he/ she will then complete an Evaluation Committee Disclosure Statement (Attachment D). A written disposition will then be made by the President of JTEC in the case of staff and the appropriate Chairperson in the case of Board members (JTEC or Cape and Islands Workforce Development Board). If it is determined that a conflict exists, the staff member or Board member will not participate in the review.

5. In rare cases, despite the precautions implemented above, active impropriety may occur in which inappropriate participation in procurement transactions has resulted in the loss of program funds, excessive costs or improper benefit to the party or organization with the conflict of interest. In the case of JTEC staff, JTEC will follow its Adverse Action Policy contained in its Personnel Policies & Procedures Manual (Attachment E). In the case of Cape and Islands Workforce Development Board staff, the Cape and Islands Workforce Development Board will take appropriate disciplinary action based on the severity of the infraction.

In the case of Board members (JTEC or Cape and Islands Workforce Development Board), the appropriate Board and in the case of the Cape and Islands Workforce Development Board the Local Elected Official will take action to suspend or remove the Board member based on the severity of the infraction.

B. Code of Conduct

The attached Staff/ Board Member Code of Conduct (Attachment F) is the written standard of conduct which shall govern the performance of all JTEC staff, JTEC Board members, CIWDB staff, CIWDB members and agents engaged in the selection, award and administration of contracts. Any complaints regarding a procurement will be handled through the Cape and Islands Unified Complaint Procedures (Attachment G).

II. Procurement Threshold Levels for Goods and Services

- A. Goods and Services \$3,500 or Less (Micro-purchase)
- B. Goods and Services \$3,501 to \$150,000 (Small Purchase)
- C. Goods and Services above \$150,000 (Simplified Acquisition Threshold)
- D. For funds made available under Title I or II of WIOA or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), JTEC/Cape and Islands Workforce Development Board will comply with Sections 8301 through 8303 of the Title 41, U.S.C. (Commonly known as the "Buy American Act").

III. Competitive Procurement

A. Goods and services \$3,500 or less (Micro-purchase)
Procurement with this threshold is the acquisition of supplies or services, the aggregate dollar amount per purchase of which does not exceed the micro-purchase threshold (\$3,500). To the extent practicable, JTEC/Cape and Islands Workforce Development Board will distribute micro-purchases equitably among qualified suppliers. Micro-purchases will be awarded without soliciting competitive quotations if JTEC/Cape and Islands Workforce Development Board considers the price to be reasonable.

B. Goods and Services \$3,501 to \$150,000 (Small Purchase)
Procurement for goods and services when the estimated cost is between \$3,501 and the Simplified Acquisition Threshold of \$150,000, will use simple and informal procurement methods for securing services, supplies or other property. Procurement will occur by contacting at least three (3) sources by phone, email or letter. Price or rate quotations will be obtained from an adequate number of qualified sources to ensure competition.

The procurement method, price or rate quotes, and justification for the selection from among an adequate number of competitive providers will be recorded using the Small Purchase Procurement Package (Attachment H).

JTEC/Cape and Islands Workforce Development Board reserves the right to use parts of the Request for Proposal Document to procure Small Purchases without using the entire process. Frequently it is advantageous to create a document that details the goods/services needed, additional specifications and administrative information in a manner which will make it easier for all potential bidders to comprehend and to ensure that all responders provide similar information to make it easier for reviewers to review submissions and make the best selections for goods and services.

C. Goods and Services Above the Simplified Acquisition Threshold (\$150,000)

Procurements at this threshold level are subject to formal bid/proposal solicitation requirements.

D. Procurement by Sealed Bids (Formal Advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest

in price.

1. In order for sealed bidding to be feasible, the following conditions should be present:
 - a. a complete, adequate, and realistic specification or purchase description is available;
 - b. two or more responsible bidders are willing and able to compete effectively for the business;
 - c. the procurement lends itself to a firm fixed price contract; and
 - d. the selection of the successful bidder can be made principally on the basis of price.
 2. If sealed bids are used, the following requirements apply:
 - a. the invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;
 - b. the invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
 - c. all bids will be publicly opened at the time and place prescribed in the invitation for bids;
 - d. a firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
 - e. any or all bids may be rejected if there is a sound documented reason.
- E. Procurement by Competitive Proposals (e.g., Request for Proposals) are used for Goods and Services Above the Simplified Acquisition Threshold (\$150,000). JTEC/Cape and Islands Workforce Development Board will use the technique of competitive proposals when it is anticipated that more than one source will submit an offer, and either a fixed-price or cost-reimbursement type contract is awarded. This type of procurement is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements will apply:

1. requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
2. proposals will be solicited from an adequate number of qualified sources;
3. JTEC/Cape and Islands Workforce Development Board will have a method for conducting technical evaluations of the proposals received and for selecting awardees; and
4. awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

F. Request for Qualifications.

JTEC/Cape and Islands Workforce Development Board will issue a formal solicitation to obtain submissions from contractors. These submissions will be reviewed by a Cape and Islands Workforce Development Board or its Executive Committee and a list of contractors qualified to provide the goods and services required will be developed. Two or more qualified providers will be compared to determine which will be chosen to provide the goods and services.

G. Individual Training Accounts (ITA).

The process of choosing a provider to train a participant through an Individual Training Account is an exception to the RFQ process. JTEC/Cape and Islands Workforce Development Board will utilize. Mass Workforce Issuance Policy 100 DCS 14.100 Massachusetts Eligible Training Provider List (MA ETPL) Initial and Subsequent Eligibility Process dated 8/15/17 (Attachment I) to determine ITA eligible providers.

H. Frequency of Solicitations

Solicitation will occur at a minimum of every two years to promote and encourage competition. Solicitation of Audit services will occur at a minimum of every five years. Multi-year funding of contractors will be consistent with the conditions of the approved RFP and award. Subsequent year funding is the option of the procuring entity only and is subject to successful performance and formal, documented contract negotiations.

I. Authority to Take Procurement Actions

This procurement policy and procedure manual identifies the organizations and the positions of individuals in the organizations that have the authority

to:

1. Allocate funds to procure services.
2. Approve procurement plans.
3. Approve non-competitive and sole-source procurements.
4. Approve the issuance of the solicitation package.
5. Approve the selection of contractors or service providers.
6. Sign contracts.
7. Approve and sign contract modifications.
8. Issue notices of contract termination.

J. Procurement Documentation

For purchases of goods and services for the career center, JTEC will maintain organized and centralized procurement files. The Quality Control Specialist will maintain all procurement files for solicitations above the \$150,000 threshold. The Director of Finance will maintain procurement files for all solicitations at or below \$150,000. Files will contain sufficient documentation to track the significant history of each procurement. Files shall contain all documentation related to that procurement. Files for procurements at or above the Simplified Acquisition Threshold (\$150,000) will include, but not limited to: the solicitation, notices of public advertisement, bidder's conference minutes, all proposals submitted with records of their receipt, all proposal evaluation documentation (including sign-off and certifications), all proposal negotiation documentation, and all related meeting/committee minutes to document the contract(s) review, evaluation and award. A Sample Procurement File Checklist is contained in Attachment J.

For purchases of goods and services related to the Workforce Development Board, the Cape and Islands Workforce Development Board will maintain organized and centralized procurement files. The Executive Director will maintain all procurement files. Files will contain sufficient documentation to track the significant history of each procurement. Files shall contain all documentation related to that procurement including, but not limited to: the solicitation, notices of public advertisement, bidder's conference minutes, all proposals submitted with records of their receipt, all proposal evaluation documentation (including sign-off and certifications), all proposal negotiation documentation, and all related meeting/committee minutes to document the contract(s) review, evaluation and award. The Sample Procurement File Checklist will be used.

K. Federal Awarding Agency or DCS Review

- a. JTEC/Cape and Islands Workforce Development Board will make available, upon request of the Federal awarding agency or DCS,

technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review will generally take place prior to the time the specification is incorporated into a solicitation document. However, in certain circumstances, JTEC/Cape and Islands Workforce Development Board may desire to have the review accomplished after a solicitation has been developed.

- b. JTEC/Cape and Islands Workforce Development Board will make available upon request, for the Federal awarding agency or DCS pre-procurement review, procurement documents, such as requests for proposals or invitation for bids, or independent cost estimates, when:
 - 1. JTEC's/Cape and Islands Workforce Development Board's procurement procedures or operation fails to comply with the procurement standards in Mass Workforce Policy Issuance 100 DCS 01.102 Procurement and Contracting;
 - 2. the procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
 - 3. the procurement, which is expected to exceed the Simplified Acquisition Threshold specifies a "brand name" product;
 - 4. the proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
 - 5. a proposed contract modification changes the scope of a contract or increases the contract amount to more than the Simplified Acquisition Threshold.

IV. Non-Competitive Procurement

- A. Procurement by non-competitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.
 - 1. Procurement by non-competitive proposals will be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:
 - a. the item is available only from a single source;
 - b. the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

- c. the awarding agency or pass-through entity expressly authorizes non-competitive proposals in response to a written request; or
 - d. after solicitation of a number of sources, competition is determined to be inadequate or a failed competition, where the solicitation has resulted in fewer than two responsive and responsible bids.
- B. When JTEC/Cape and Islands Workforce Development Board conducts a formal solicitation process and receives only one qualified proposal, the award process will be justified and documented. A Failed Competition Analysis will be performed.

Failed Competition Analysis

JTEC/Cape and Island Workforce Development Board will address the following questions:

1. Was there a weakness in the solicitation specifications?
 - a. Was the statement of work clear?
 - b. Was the statement of work too narrowly defined?
 - c. Were the administrative requirements too cumbersome?
 - d. Was there an excessive amount of experience required?
 - e. Was the cost the entity was willing to pay too low?
 - f. Was there adequate time to prepare proposals?
2. Was the solicitation advertised in an adequate number of locations?
3. Are the services/training being sought really only available from one offeror?

Prior to awarding the contract, JTEC/Cape and Islands Workforce Development Board will address these issues and document that the process was not flawed and that in fact only one vendor can provide the services being sought. A cost/price benefit analysis will be completed prior to awarding the contract.

- C. Prior written approval by DCS will be obtained for any actual sole source or emergency/exigency award which is in excess of \$150,000. All such awards will be justified and documented. Requests for approval will include the following information:
- a. copy of the offerors proposal;
 - b. copy of the cost/price analysis;
 - c. copy of related Cape and Islands Workforce Development Board committee and Board meeting discussion minutes;
 - d. copy of the non-competitive/award justification;
 - e. cover letter requesting approval; and
 - f. failed competition analysis.

If a procurement which did not initially require DCS approval, needs to be modified to an amount which exceeds \$150,000, JTEC/Cape and Islands Workforce Development Board will submit the entire procurement original plus modification to DCS for approval prior to the execution of the modification.

V. Development of a Procurement Plan

A. The Procurement Plan for Goods and Services \$3,500 or Less (Micro-Purchases) is as follows:

1. Career Center Department Heads/Cape and Islands Workforce Development Board staff member will identify the need for necessary goods and/or services to support Career Center/Cape and Island Workforce Development Board staff member administration or operations.
2. Career Center Department Head/CIWDB staff member will complete a Requisition Form (Attachment K) listing the goods and/or services to be purchased and the contractor who will provide the goods and/or services, the quantity requested, number of units needed, unit price (where applicable) of each unit and the total amount of the purchase.
3. The Career Center Department Head/CIWDB staff member will sign the Requisition indicating that he/she believes the purchase is necessary.
4. The Career Center Department Head/CIWDB staff member will give the Requisition to the Director of Finance/CIWDB Accountant.
5. The Career Center Director of Finance/CIWDB Accountant will sign the Requisition indicating the funding is available.
6. The Career Center Director of Finance/CIWDB Accountant will give the Requisition to the JTEC President or Sr. Vice President/CIWDB Executive Director.
7. The JTEC President or Sr. Vice President/CIWDB Executive Director will review the Requisition. If the JTEC President or Sr. Vice President/CIWDB Executive Director believes the goods and/or services are necessary, he/she will sign the Requisition and return it to the Career Center Department Head/CIWDB staff member so he/she may order the goods and/or services. If the JTEC President or Sr. Vice President/CIWDB Executive Director does not believe the goods and/or services are necessary or questions the price or contractor, he/she will return the unsigned Requisition to the Career Center Department Head/CIWDB staff member asking for further justification.
8. If further justification is provided and an adequate response is

provided regarding the price and/or contractor, the JTEC President or Sr. Vice President/CIWDB Executive Director will sign the Requisition and return it to the Career Center Department Head/CIWDB staff member to place the order.

9. If a response is not provided by the Career Center Department Head/CIWDB staff member or the response does not provide an adequate justification; need; price; or the contractor selected, the JTEC President or Sr. Vice President/CIWDB Executive Director will notify the Career Center Department Head/CIWDB staff member that the Requisition is not approved for purchase.

B. Goods and Services \$3,501 to \$150,000 (Small Purchases)

1. Career Center Department Heads/CIWDB staff member will identify needs for goods and/or services.
2. The Career Center Department Head/CIWDB staff member will complete and sign a Pre-Requisition Form (Attachment L) listing the goods or services to be purchased. For goods, the Pre-Requisition Form will list the item needed, the number of units needed, unit price (where appropriate) of each unit and the total estimated amount of the purchase. For services, the Pre-Requisition Form will contain the services to be provided and the estimated cost.
3. The completed Pre-Requisition Form will be given to the Career Center Director of Finance/CIWDB Accountant who will review the form. The Career Center Director of Finance/CIWDB Accountant will either sign the Pre-Requisition Form if funds are available and send it to the JTEC President or Sr. Vice President/CIWDB Executive Director for his/her authorization or return it to the Career Center Department Head/CIWDB staff member indicating funds are not available.
4. The JTEC President or Sr. Vice President/CIWDB Executive Director will review the Pre-Requisition Form and either sign it authorizing the Small Purchase Procurement Process or return the Pre-Requisition Form to the Career Center Department Head/CIWDB staff member indicating why he/she is not authorizing the Small Purchase Procurement Process for the goods and/or services requested.
5. If the JTEC President or Sr. Vice President/CIWDB Executive Director has authorized the informal procurement to proceed, the authorized purchasing agent will contact a minimum of three (3) potential contractors by phone, email, letter or fax to ensure price/rate quotes are obtained from an adequate number of sources.
6. The authorized purchasing agent will then complete a Price Analysis for Goods and Services Between \$3,500 and \$150,000 (Attachment M) indicating which contractor was selected and the

justification for the selection.

7. The authorized purchasing agent will complete and sign a Requisition Form, attach the completed Price/Rate Quote Form for Small Purchases Below the Simplified Acquisition Threshold (\$150,000) and attach the quotes.
8. The Requisition Form will then be sent to the Career Center Director of Finance/CIWDB Accountant for signature.
9. The Requisition Form will then be sent to the JTEC President or Sr. Vice President/CIWDB Executive Director for signature.
10. The signed Requisition will be returned to the authorized purchasing agent to submit the order, receive the goods and forward the invoice to the Finance Department for signature.
11. Occasionally, the JTEC President or Sr. Vice President/CIWDB Executive Director may choose to use part of the Request for Proposal (RFP) document in order to provide and receive more detailed information for a particular procurement. The use of part of the RFP does not require that all parts of the RFP process will be used.

C. The Procurement Plan for Goods and Services Above the \$150,000 Simplified Acquisition Threshold

Procurement of Goods and Services above the Simplified Acquisition Threshold may take four forms:

- Request for Qualification (RFQ)
- Invitation for Bids (IFB)
- Request for Proposal (RFP)
- Non-Competitive Procurement.

1. Approval of Procurement Plans

Procurement plans for Career Center goods and services are developed by the JTEC Staff. The Cape and Islands Workforce Development Board (CIWDB) approves the Annual WIOA Plan which contains information on any goods or services above the Simplified Acquisition Threshold which will be procured during the fiscal year.

- a. Procurement plans are developed by the JTEC Staff for goods or services above the Simplified Acquisition Threshold contained in the Annual WIOA Plan.
- b. JTEC Staff select one of the four options listed above based on the goods or services being procured.
- c. The JTEC Staff develop a Timeline for Solicitation (Attachment N) and the Solicitation Package corresponding to the selected procurement method.
- d. The Timeline for Solicitation and the Solicitation Package

which constitute the Procurement Plan are presented to the CIWDB Executive Committee for review and approval. Any changes to the Procurement Plan requested by the Executive Committee are made to the documents. The Executive Committee then approves the Procurement Plan. If the CIWDB meets during the same month of the CIWDB Executive Committee, the full Board reviews the Procurement Plan. If the CIWDB does not meet during the month, the CIWDB Executive Committee is the authority that approves the Procurement Plan on behalf of the CIWDB.

Modifications to procurement plans will be processed in the same manner.

2. Approval of Non-Competitive and Sole Source Procurement

Procurement Plans are developed by the JTEC Staff. The CIWDB approves the Annual WIOA Plan which contains information on any goods or services above the Simplified Acquisition Threshold which will be procured during the fiscal year.

- a. Procurement by a non-competitive proposal, i.e. solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate, will only be considered when one of the conditions in Section IV A exists.
- b. If the reason for a non-competitive proposal, is one of the reasons outlined in Section IV A (1) a-c, the JTEC Staff will develop a Timeline for Solicitation and a Solicitation Package for either an RFP or an RFQ based on the circumstances of the procurement. The Solicitation Package may be a shortened version if the reason for the procurement is an emergency circumstance.
 1. This Procurement Plan will be submitted to the CIWDB Executive Committee for review and approval. Any recommendations for changes will be made and the CIWDB Executive Committee then approves the Procurement Plan. If the CIWDB meets during the month, the full Board reviews the Procurement Plan. If the CIWDB does not meet during the month, the CIWDB Executive Committee is the authority that approves the Procurement Plan on behalf of the CIWDB.

2. The Sole Source will complete the RFP/RFQ and submit its response to JTEC. JTEC Staff will review the RFP/RFQ to ensure that it meets the requirements for Qualifying Criteria (Attachment O). If the submission meets the Qualifying Criteria, it will be forwarded to the CIWDB Evaluation Committee which consists of CIWDB members, CIWDB Staff and JTEC Staff. If the submission does not meet the Qualifying Criteria, the sole source proposer will be contacted to provide the required information.
 3. The Evaluation Committee will review the proposal using the Selection Criteria. Sample Selection Criteria is contained in Attachment P. Upon completion of the review by the Evaluation Committee, if the proposal receives at least the minimum number of points required for approval, the recommendation with or without stipulations for funding/non-funding will be submitted to the CIWDB Executive Committee for review and approval. If the CIWDB Executive Committee approves the submission with or without stipulations, the proposal will be submitted to the CIWDB for approval. The full Board meets during the month. If the CIWDB does not meet during the month, the CIWDB Executive Committee is the authority that approves the submission on behalf of the CIWDB. If the proposal is approved by the CIWDB, or the CIWDB Executive Committee on its behalf, with or without stipulations, the proposal with the request for approval for the sole source procurement will be submitted following the process outlined in Section IV C.
- c. If the reason for a non-competitive proposal is the reason contained in Section IV A (1) (d), a failed competition, the RFP will be evaluated based on the process outlined in V B (3) above

VI. DEVELOPMENT OF FORMAL SOLICITATIONS AND THE STATEMENT OF WORK (SOW)

A. SOLICITATIONS

The solicitation is the document that the Procuring Entity issues to elicit offers from proposers or bidders. The formal solicitation (RFQ, IFB, RFP) is the document that invites offers from potential service providers.

1. Request For Qualifications (RFQ)

Proposals are solicited from qualified sources by formally advertising in local newspapers and sending out by letter or email the RFQ to the potential contractors/service providers selected from the inventory of providers. Proposals are received, evaluated and those potential providers who qualify are placed on the approved providers' list. To be accepted as a viable procurement vehicle, all provider lists will be current and include a sufficient number of qualified sources. Services are then selected utilizing a specific rationale (price comparison, demonstrated performance, etc.) established for final selection from the approved contractor list.

If JTEC finds that it did not necessarily reach all potential offerors, it may send out the RFQ specifications to other potential providers after the providers' list has been established and augment the list if subsequent providers meet the same evaluation criteria.

JTEC will use DCS's Eligible Provider List for the procurement of Individual Training Services.

a. Notice of Request for Qualifications

The notice should, at a minimum, briefly summarize all important information regarding the RFQ including:

- ◆ name and address of entity issuing the RFQ;
- ◆ name, address, title and phone number of person to contact regarding questions;
- ◆ how to obtain the RFQ Specifications;
- ◆ response due date and time deadlines;
- ◆ number of copies of response;
- ◆ period for which services are sought (could be Program Year);
- ◆ specify location and method of delivery of response;
- ◆ other stipulations and clarifications as required;
- ◆ statement concerning Equal Opportunity Employer; and
- ◆ description of provider's organization and type of services generally

provided.

b. RFQ Specifications

1. Introductory Information

The RFQ package may include an introductory section covering general explanatory information to clarify any special points or items of interest. For example, this section could be used to discuss providers' conference meeting plans, procedures and general information on evaluation of proposals, how contractors will get on the approved providers' list, etc.

2. Nature of the Services Being Sought

This section describes the services being requested. While a single provider may offer a range of courses, it is not likely to be equally competitive in each, particularly in terms of demonstrated performance. Each program offered by the provider will be evaluated separately.

3. Cost

Potential service providers/contractors are asked to submit a cost which is non-rescindable. Potential service providers who do not have an "off-the-shelf" price must submit a line item cost basis for the training which includes training, any related costs in providing the training and overhead costs.

Potential contractors may submit an "off-the-shelf"/tuition based single unit charge for services if the services are sold to the general public in the course of normal business operations and the cost is a single charge for tuition. The price should be published in a catalog or price list describing the course.

4. Technical Proposal

Offerors who submit proposals which are not "off-the-shelf"/tuition based single unit charges are required to provide the following information:

- 1) their qualifications to provide the services;
- 2) a description of their background and experience with the services for which bids are being provided;
- 3) information as to the size and structure of the offeror's organization;

- 4) positive affirmations that offeror has all the required licenses to perform the services being sought;
- 5) a statement of their understanding of the services to be provided, including time and cost; and
- 6) a statement of their refund policy.

5. Evaluation of Qualifying Proposals

JTEC/Cape and Islands Workforce Development Board must include criteria for offerors to be placed on the providers' list. Such criteria should include, but are not limited to the following:

- 1) offeror's qualifications and experience in providing the services/training;
- 2) frequency of training/services offered;
- 3) demonstrated performance; and
- 4) cost/price.

Additional criteria may include:

- 5) geographic location(s), including a description of public transportation, if available; and
- 6) size of firm/capacity.

JTEC/Cape and Islands Workforce Development Board will describe the process of notification to successful and unsuccessful offerors; and will also inform successful offerors that while they may have been placed on the providers' list, they will not automatically be awarded contracts when the need arises. The RFQ should contain the selection procedures JTEC/Cape and Islands Workforce Development Board will utilize prior to the final negotiation/award of contracts.

6. Rationale for Final Service Selection

Written procedures should include JTEC/Cape and Islands Workforce Development Board rationale, justification and documentation of final selection. This rationale will be consistently applied in the selection of each service/good selected from the list. At a minimum, each final individual selection will consider and document price comparison and demonstrated performance. Additional factors for consideration may be indicated. To the extent that any additional considerations enter into source selection, their application will be documented in the RFQ specifications.

2. Invitation for Bids (IFB)

Sealed bids (Formal Advertising) are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price. JTEC/Cape and Islands Workforce Development Board award the contract to the responsible offeror whose bid is most advantageous considering only price and price-related factors.

Content of IFB

a. Notice of Proposal

The Notice of Proposal should briefly summarize all important information regarding the IFB. It should include:

- name and address of entity issuing the IFB;
- name, address, title and phone number of person to contact regarding questions;
- period for which services will be provided (clarify if multi-year proposal);
- other stipulations and clarifications as required;
- statement about equal opportunity employer;
- how the entity is organized and what kind of services the entity generally provides;
- response due date and time deadlines with consequences of late responses;
- number of copies of response required;
- specific location and method of delivery of response; and
- public opening of all bids at a published date and time.

b. Introductory Information

The IFB package may include an introductory section covering general explanatory information to clarify any special points or items of interest. For example, this section could be used to discuss bidder's conference meeting plans and procedures and general information on the evaluation of proposals and the bid opening procedures.

c. Nature of the Services Required/Statement of Work

This section should describe the services being requested and how those services are to be provided (times and dates). For more detail see section V B on the Statement of Work.

d. Cost/Budget

JTEC/Cape and Islands Workforce Development Board will include in the IFB a standard budget format with detailed support for each line item.

e. Technical Proposal

Offerors are required to provide the following information:

- their qualifications to provide the services;
- a description of their background and experience with the services being sought;
- resumes of those staff who will provide services;
- information as to the size and organization of the offeror's firm;
- a statement of their financial capabilities;
- a copy of their most recently completed audit;
- positive affirmations that offeror has all the required licenses to perform the services being sought; and
- a statement of their understanding of the services to be provided, including time and cost.

f. Evaluation of Proposals

JTEC/Cape and Islands Workforce Development Board will include information in the IFB concerning the factors to be used in evaluating proposals and the process for notifying offerors as to the final outcome.

JTEC/Cape and Islands Workforce Development Board has the option of including who will review the proposals and the actual weights of the review criteria, if desired.

3. Request for Proposals (RFP)

JTEC/Cape and Islands Workforce Development Board will ensure that RFPs include:

- a. Statement of Work or Specifications. The Statement of Work (SOW) is the document that clearly describes the services that are being acquired. (SOW requirements are addressed later in this document Section VI B).
- b. A description of the requirements for time, place and methods or performance of services. This may be included within the SOW, however, these requirements will be stated in a separate section to

summarize the work to be completed with dates and places for delivery of services.

- c. Contract clauses that will be included in any resulting contract. Standard "boilerplate" clauses will be made available to bidders. This may be accomplished by inclusion in the RFP or by information to the bidders that the boilerplate is available for review at JTEC/Cape and Island Workforce Development Board.
- d. Assurances, certifications and representations. Any assurances, certifications and representations that the bidder will be required to execute will be included in the RFP, and may require a statement from the offerors that they will comply with any regulatory requirement established by the funding source.
- e. Detailed information on how to prepare and submit the proposal. The RFP will provide clear direction on the proposal format; the number of copies to submit; the location where the proposal should be submitted and the submission closure time and date. The RFP will also establish any minimum responsiveness requirements that must be met for a proposal to be considered.
- f. Description of how price or cost will be utilized as a factor affecting proposal awards decisions.
- g. Criteria and evaluation developed to review proposals for award decisions. The RFP will include a description of the qualifying criteria required for the proposal to be evaluated and the evaluation criteria to be utilized.
- h. Solicitation provisions. The RFP will clearly state the provisions that govern the solicitation process and clearly describe how the procurement process will be managed. For example, this may include whether the bidder's conference is mandatory or optional, logging in of proposals, expected time frame for notification of award/non award and what appeals process is available to bidders, time frames and levels of JTEC and Cape and Islands Workforce Development Board committee reviews; when the full Cape and Islands Workforce Development Board will review and vote on recommendations; etc. The RFP may also include a description of the process which will be followed if the RFP is amended, e.g., if the bidder's conference results in clarification needed or if changes/decisions are made which affect the services being procured.

- i. **Budget Instructions.** The RFP will request a full line item budget which identifies the basis for all costs by cost category, and will provide detailed instructions as to what constitutes a complete budget. A budget narrative will also be required.
- j. **Summary or cover sheet.** The RFP will request a summary or cover sheet.
- k. **Other.** The RFP will also include:
 - reservation of JTEC's/Cape and Islands Workforce Development Board's right to reject any or all proposals;
 - statement of the proposer's rights of protest and appeal;
 - if a competitive range or other narrowing of offerors is to be used, the decision criteria, which may include a minimum threshold, will be described; and
 - information regarding whether amended or "best and final" proposals will be requested and evaluated.

B. STATEMENT OF WORK

The Statement of Work (SOW) is the section of the solicitation (RFQ, IFB, RFP) that specifically describes the scope of work; the materials necessary to complete the work and the services to be procured.

The SOW should include:

1. **Background Information.** The solicitation should include information on:
 - a. the audience for which this solicitation is being prepared;
 - b. funding source and authorization;
 - c. JTEC/Cape and Islands Workforce Development Board implementation and responsibilities;
 - d. information on previous JTEC/Cape and Islands Workforce Development Board sponsored training programs;
 - e. definitions/terminology; and
 - f. references to JTEC/Cape and Islands Workforce Development Board plans; labor market surveys and any other relevant background.
2. **Purpose.** The solicitation will include information on the overall program objectives (and their relationship to this solicitation); the purpose of the contract (what services are being procured); and the target groups the program will serve. Focus is on outcomes, allowing some flexibility on how to achieve the goals.

3. **General Responsibilities.** The SOW will include requirements for information on management, staffing and the direction of programs; location and facilities; hours of operation; coordination with JTEC/Cape and Islands Workforce Development Board; administrative procedures; component budget; and, if applicable, minimum staff qualifications.
4. **Demonstrated Performance.** The solicitation will require the offeror to document its record of demonstrated performance in the past delivery of employment and training or related services.
5. **Services to be Performed.** The solicitation will be very specific in describing the services to be performed, carefully identifying what is to be accomplished as opposed to how it should be accomplished. However, required services will be detailed in the SOW so that bidders are aware of services that are not flexible, i.e. that are required. When procuring for employment and training services, this section will identify which career services, and training services are being sought.
6. **Standards of Performance.** This section identifies how well the offeror must perform, including criteria to determine satisfactory performance. This section will reference: program outreach; recruitment goals (e.g., target groups); intake; program design standards; and program performance outcome standards.
7. **Administrative Requirements.** This section specifies what specific actions must be taken to comply with Federal, State and Local regulations, policies and procedures. At a minimum, this section will include: requirements for maintenance of applicant/participant records; fiscal management and reporting; program status records and reports; a list of any JTEC/Cape and Islands Workforce Development Board furnished property or space; allowability of subcontracting; grievance procedures; performance; and submission of single audits by public/non-profit organizations awarded contracts within 9 months of the end of the program, if applicable. Financial risk assessment procedures for each applicant prior to award as required by Federal Regulations 2 CFR 200.205.
8. **Exhibits.** This section will include any materials to be provided to offeror as exhibits. These exhibits may include, but are not limited to: standard forms and reports; standardized procedures; maps and flow diagrams; proposal evaluation format; and organizational charts.

C. NOTIFICATION OF AVAILABILITY OF REQUEST FOR PROPOSAL

Notification of the solicitation for a Request for Proposal (RFP) will occur in two (2) ways:

1. Public notification will occur through advertising in at least one local newspaper. The Sample Solicitation Public Notice is Attachment Q.
2. Letters describing the RFP availability which include the same information contained in the Sample Solicitation Publication Notice will be mailed to all organizations/individuals on the Bidder's List.

D. RECEIPT OF PROPOSALS

A log of incoming proposals (Attachment R) will be kept which contains the name of the offeror, and the date and time of receipt of proposals, receipt of original, number of copies received, total cost and name of person receiving the proposal. The log will not be visible to offerors who hand-deliver their proposals. Names and the number of offerors submitting proposals is confidential until the solicitation process has been completed. Incoming proposals will also be date stamped. If proposals are late and it has been specified in the solicitation that late submissions will not be accepted, the proposals will still be logged in. The offeror will be notified that the requirements of the solicitation were not satisfied. If all proposals received were received after the date and time specified, the Evaluation Committee may decide to waive that requirement and read and rank the proposals.

Proposals will be opened and the content of proposals reviewed at a specified time and place. If the solicitation specified that incomplete submissions will constitute a non-responsive proposal, then this procedure is critical. A checklist will be developed to review proposals for completeness, utilizing the solicitation specifications.

All proposers will be treated equally. If one proposal is rejected for incompleteness, then all other proposals which were not complete will be rejected.

E. REVIEW/EVALUATION OF SOLICITATIONS

1. Description of the procedures used to review proposals and select contractors.
 - a. The CIWDB will appoint an Evaluation Committee for each procurement consisting of JTEC staff, CIWDB staff and CIWDB members to review RFP's. JTEC staff will always include the JTEC President and/or Senior Vice President; the Department Head for the

customers who will be served for the program; the Quality Control Specialist; and the Director of Finance.

- b. An Evaluation Team Conflict of Interest/Non-Disclosure Statement (Attachment C) will be signed and returned by all Evaluation Committee members at the time of proposal distribution. Also attached will be an Evaluation Committee Disclosure Statement (Attachment D) which may be used by committee/subcommittee members during the evaluation process if needed.
- c. The evaluation process will contain Qualifying Criteria which bidders must meet in order to have their proposals reviewed and Selection Criteria which are used to evaluate the submitted proposals.
- d. The JTEC staff review the Qualifying Criteria (example is Attachment O) of each proposal to ensure that they meet the requirements to be read and scored. If the proposer meets all of the Qualifying Criteria, the proposal is given to the Evaluation Committee to read and rank. If the proposer does not meet all of the Qualifying Criteria, the proposal is not forwarded to the Evaluation Committee. The exception to this procedure is if all of the proposers do not meet the Qualifying Criteria. In which case, JTEC may request that each proposer update their proposal in order to meet the Qualifying Criteria that they are lacking. No other part of the proposal may be updated. Subsequent to the request, if one or more proposers have attained the Qualifying Criteria, their proposal(s) will be sent to the Evaluation Committee for review.
- e. The Evaluation Committee will receive the proposals with Selection Criteria Forms in sufficient time to read and rank them, using the Selection Criteria (example is Attachment P), prior to the meeting of the Committee to discuss the proposals and review the scores of individual Committee members.
- f. During the evaluation process, clarification of technical proposals may be requested. These clarifications may be requested by telephone with a written confirmation following, by email or by letter. The clarifications themselves will only be accepted in writing. Written clarifications will be addressed to the JTEC President and distributed by him/her to all members of the Evaluation Committee.
- g. During the meeting, the Committee will discuss each proposers rating for each of the Selection Criteria. At the completion of the review of each proposal, each member's score will be recorded on the Evaluation Committee Scoring Chart, an example is Attachment S.

- h. During the meeting, the Evaluation Committee members may decide to have a presentation from the proposer. In this case, a date and time will be set up for each proposer who is requested to make a presentation before the committee. The Evaluation Committee is not required to request presentations from all proposers. The Evaluation Committee may request a presentation from one or more proposers. If a proposer is requested to meet with the Committee, the member's scores will not be recorded on the Evaluation Committee Scoring Chart until the proposer has come before the Evaluation Committee or the proposer declines the request.
- i. At the completion of the Evaluation Committee meeting or the end of the presentation, if one or more presentations are requested, the score of each Committee Member for each proposal will be added together on the Evaluation Committee Scoring Chart and an average score will be obtained. The average score must be at least 70% of the available points in order to be considered for funding.
- j. The Evaluation Committee will then formulate their recommendations which may include funding stipulations that will be reviewed with the selected contractor as part of the negotiation process, and be based on: the average ranking received from the selection criteria, the information contained in the price analysis, the information contained in the cost analysis, as well as geographic concerns and other concerns delineated in the RFP document.
- k. The recommendations to fund/not to fund with a justification documented in the meeting minutes and the stipulations for funding will be entered into the Proposal Analysis Summary Sheet (Attachment T) along with the other quantitative data contained on the sheet.
- l. A Program Fact Sheet (Attachment U) will be completed for each proposal that is received.
- m. The Evaluation Committee recommendations will then be brought to the CIWDB's Executive Committee which will review and recommend for funding; or review and modify the recommendation; or disapprove them. If the CIWDB meets during the month, the recommendations will be brought before the CIWDB for review and approval or review and modification or disapproval of the recommendations. If the CIWDB does not meet during the month, the CIWDB Executive Committee is the authority that approves the submission on behalf of the CIWDB.

- n. For all contracts for programs and services that follow the RFP Process (are above \$150,000), the recommendations of the CIWDB are then submitted to the Lead Elected Official representing Barnstable County for his/her concurrence/non-concurrence with the funding decisions made by the WDB. In the instance of non-concurrence by the Lead Elected Official, the proposal is not funded.
- o. The CIWDB will use the WIOA Unified Complaint Process which will be included in each Solicitation and is attached (Attachment G) for any proposers who do not agree with the decisions of the WDB or LEO.

2. Technical Evaluation

Consideration will be given based upon demonstrated performance in the delivery of comparable services, in terms of the likelihood of meeting performance goals, cost, quality of training, the characteristics of the clients, and consideration to demonstrated performance in making appropriate supportive services and child care available.

a. Minimal Evaluation Factors

Criteria tailored to the specific solicitation requirements will be developed. Cost/price will be included. Other factors which can be included are:

- 1. cost realism (Can the services and the performance goals be delivered for the budgeted cost?);
- 2. time table (Can the services and performance goals be met in the projected time table?);
- 3. technical content;
- 4. management/fiscal capability;
- 5. qualifications of staff assigned to the project;
- 6. experience in delivering comparable services;
- 7. demonstrated performance; and
- 8. anything else the agency deems important in making its decision.

The solicitation will specify the Selection Criteria that will be used in evaluating proposals. If the RFP does not specify the weight of each criteria, it will discuss their relative importance.

b. Rating the Proposals

Factors for rating proposals, whether numerical or qualitative, will ultimately be weighted by total points. In general, the relative weight of criteria will be consistent with the goals of the annual plan or proposal.

Rating sheets will direct the reviewer to the relevant sections of the solicitation which is the basis for assignment of points. Rating standards will be constructed in a graduated fashion to prevent an all or nothing decision for a particular criteria. JTEC/Cape and Islands Workforce Development Board will not establish pass/fail standards such as weeks of training, cost per participant, etc., as this weakens the impartiality, competitiveness, and cost reasonableness of the process.

c. Proposal Evaluation Conduct

All review team members are expected to read all competing proposals. Rating sheets will be completely filled out, signed and certified (no conflicts) by the reviewers. The rating sheets will be retained in the procurement file as an audit trail supporting the reliability, objectivity and impartiality of the review process.

The ratings will be summarized and aggregated. The results of the evaluation will then be forwarded in writing by the Chair of the Evaluation Committee to the Cape and Islands Workforce Development Board Executive Committee. Documented minutes will be maintained. The results of each level of review will be separately recorded and documented.

d. Contract Price and Cost Analysis, Independent Estimates, Cost Classification

Cost analysis demonstrates how the offeror presents their best services at the most favorable price. Price and cost analysis also demonstrate the offeror's understanding of the services to be provided and their commitment of the needed resources to get the work done. This analysis is usually separate from program analysis.

A cost or price analysis will be performed in connection with every procurement action in excess of the Simplified Acquisition Threshold (\$150,000), including contract modifications. Each offeror will be required to certify that to the best of its knowledge and belief, the cost data is accurate, complete, and current at the time of agreement on price.

1. Price Analysis

Price analysis is the process of examining and evaluating a price without looking at the cost elements and the proposed profit of the offeror. This involves:

- a. comparison of competitive price quotations;

- b. appropriate comparison of historical or current prices for similar items which have been competitively procured or formally determined as reasonable based on price and/or cost analysis;
- c. appropriate use of measures to point out differences such as price per training hour, price per slot, price per participant or price per placement among essentially similar services;
- d. appropriate comparisons of prices on published price lists (when available) with published market prices together with discount or rebate schedules; and
- e. comparison of proposed prices with independent estimates such as comparisons of prices on published price lists (when available) or previous costs for similar services.

Sample Price Analysis is Attachment V.

2. Cost Analysis

Cost analysis is the review and evaluation, element by element of the line item budget included in the proposals to establish the reasonableness of proposed costs. Cost analysis is not always necessary. It is used to establish the basis for negotiating a contract price where price comparison is not adequate or is lacking altogether or where price analysis does not ensure the reasonableness of prices.

Elements of Cost Analysis

All offerors will be required to submit a detailed line item budget. Offerors will be required to submit a budget narrative describing the assumptions and rationale for arriving at these cost estimates.

Reviewers will then verify the cost and pricing data and evaluate them by:

- a. judging whether costs are reasonable;
- b. evaluating the cost trends on the basis of current or historical cost data;
- c. conducting an appraisal of the estimated labor, materials, etc.;
- d. evaluating negotiated or federally audited rates, if indirect charges are included. In conducting such a review, reviewers may reference

federal indirect cost rate circulars. Some universities have approved indirect cost rates which may be based upon research or other grant data and would not necessarily apply in the realm of employment and training grants. The rate basis must be clear;

- e. reviewers will also compare costs proposed with any other data available including what the offeror proposed in the past, has delivered or is delivering now, and other proposals; and
- f. reviewers will also verify that the proposed costs are in accordance with applicable cost limitations. For instance, if the solicitation states that administration or indirect costs may not exceed 10 percent, then all proposals must be reviewed for compliance with this requirement.

3. Independent Estimates

The method and degree of analysis depends on the facts surrounding the particular procurement and pricing situation, but at a minimum, JTEC/Cape and Islands Workforce Development Board will make independent estimates of the anticipated cost per participant before receiving bids or proposals. This provides a yardstick for the comparison of the costs and prices of an offeror.

4. Classification of Costs

JTEC/Cape and Islands Workforce Development Board will require offerors to submit proposals utilizing the appropriate cost categories so that a determination may be made whether costs comply with cost limitations and whether costs are properly classified, if necessary.

The reviewers will be certain that offerors do not include the same services as both direct and joint/indirect charges. If possible, costs will be budgeted as direct charges. If the offeror has budgeted indirect charges, the rate must be one approved by a cognizant federal agency or based upon a written cost allocation plan approved by JTEC/Cape and Islands Workforce Development Board. Further, JTEC/Cape and Islands Workforce Development Board is not required to allow the offeror an approved rate if sufficient funds are not available or if the administrative cost limitation would be exceeded.

Awards to sub-recipients or contractors that are solely for the performance of administrative functions are classified as administrative costs. Personnel and related non-personnel costs of staff that perform both administrative functions as defined in the applicable and programmatic services or activities must be allocated as

administrative or program costs to the benefiting cost objectives/categories based on documented distributions of actual time worked or other equitable cost allocation methods. Except for awards that are solely for the performance of administrative functions, all costs incurred for functions and activities of sub-recipients and contractors are program costs.

5. Analyzing Proposed Costs

Reviewers need to know the basis for the estimated costs, whether historical data, quotes, catalogs or price data was used. Reviewers also need to determine if proposed resources are sufficient, though not excessive, to achieve objectives, including reasonableness of staffing patterns and salary rates. Reviewers must verify that costs will not violate laws, regulations and policy and solicitation requirements and restrictions. Costs must be necessary and reasonable.

6. Documenting Conclusions and Concerns

Reviewers must document their conclusions and concerns, including the cost analysis, particularly if JTEC/Cape and Islands Workforce Development Board intends to negotiate with the offeror.

Documentation is critical if offeror protests are filed and is helpful in the monitoring and administration of the contract.

7. Analysis of Specific Costs

Each element of cost should be reviewed separately to determine whether it is reasonable and necessary. For example, staffing costs should be reviewed to determine if the staffing pattern and number of staff are appropriate, whether the compensation is appropriate, etc. For all items, reviewers must determine if the proposal is including a fair share of the costs, and whether there is a less costly way of providing the same services. For equipment, lease versus purchase should be considered. In most cases, JTEC/Cape and Islands Workforce Development Board need not allow the purchase of equipment since all equipment purchased under WIOA funding sources becomes the property of the federal government. The reviewer needs to analyze the client supportive services proposed to verify whether those costs are necessary to enable eligible clients to participate in the training.

a. Subcontracts

When an offeror includes a subcontract, it must be clearly identified, described and justified. The reviewer needs to perform price and cost analysis of subcontracts as well. The reviewer

will analyze how the prime offeror will monitor subcontracts, review reports, etc.

b. Indirect costs

As stated above, the RFP permits offerors to include indirect costs. These costs must conform to federal, state and local guidelines. The reviewer needs to analyze these costs to ensure that the charges included in the rate are not duplicated in the direct charges. If the indirect rate is not an audited or federally approved one, a cost allocation plan must be submitted by the offeror. The reviewer needs to ascertain whether this contract can support the rate and whether it is appropriate for the proposed services.

c. Profit, Program Income or Fee

In the federal procurement system, profit may only be earned by for-profit organizations. Non-profit organizations are required to treat any profit earned as program income, and are required to reprogram these funds according to state policy. Procurements shall not permit excess profit or program income. If profit or program income is included in the price, JTEC/Cape and Islands Workforce Development Board shall negotiate profit or program income as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed.

There is no fixed guideline for the identification of excess profit. JTEC/Cape and Islands Workforce Development Board will establish a limit (for example, 5%) for each RFP which may be based on the current market/industry standard/rate of profit for similar work. Any figure which exceeds JTEC's/Cape and Islands Workforce Development Board's established limit must be clearly documented as justified, or reduced to that established limit. To establish a fair and reasonable profit or program income, consideration shall be given to the complexity of the work; the risk borne by the contractor; the contractor's investment; the amount of subcontracting; the quality of the contractor's record of past performance; industry profit rates in the surrounding geographical area for similar work; and, market conditions in the surrounding geographical area.

JTEC/Cape and Islands Workforce Development Board contracts which provide for profit or program income will require that the provider submit a certification of revenue earned in excess of contract expenses through contract financial close-out reporting.

Contracts between governmental entities will not include profit or program income.

d. Second Year Costs

Solicitations which also seek services for a second year must be subjected to review and evaluation consistent with that of the original awarding year's review. Costs may be less in the second year in the absence of start-up costs. Other costs may rise due to inflation, salary or cost-of-living increases for staff assigned to the contract. All costs must be analyzed and documented as necessary and reasonable in the second/subsequent year.

VII. CONTRACTING OVERVIEW

A. Contracting with small and minority firms, women's business enterprises and labor surplus area firms

1. JTEC/ Cape and Islands Workforce Development Board will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.
2. Affirmative steps shall include:
 - a. placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - b. assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - c. dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
 - d. establishing delivery schedules, where the requirement permits participation by small and minority business, and women's business enterprises;
 - e. using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
 - f. requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in this section.

B. Procurement of Recovered Materials

JTEC/Cape and Islands Workforce Development Board and their contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002

include procuring only items designated in guidelines of the Environmental Protection Agency (EPA at 40 CFR part 247) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

C. Contract Cost and Price

1. JTEC/Cape and Islands Workforce Development Board must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition threshold, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, JTEC/Cape and Islands Workforce Development Board must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of its estimated cost, e.g., under professional, consulting, and architectural engineering services contracts, or whenever a line item budget is submitted. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.
2. JTEC/Cape and Islands Workforce Development Board will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
3. Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles.
4. The cost plus a percentage of cost and percentage of construction cost methods of contracting will not be used.
5. All procurement contracts between JTEC/Cape and Islands Workforce Development Board and units of state or local governments must be conducted on a cost reimbursement basis. No provision for profit is allowed.

- D. JTEC/Cape and Islands Workforce Development Board does not use the Competitive Range System as described in Mass Workforce Issuance 100 DCS 01.102 dated May 12, 2016: Procurement and Contracting (Attachment X).

E. "High-Risk" Contractors

A contractor may be considered "high-risk" if a JTEC/Cape and Islands Workforce Development Board determines that the contractor is otherwise responsible but:

1. has a history of unsatisfactory performance;
2. is not financially stable;
3. has a management system which does not meet required management standards; or
4. has not conformed to terms and conditions of a previously awarded contract or agreement.

When a contractor is considered "high-risk", special funding restrictions to address the "high-risk" status may be included in the agreement. Such restriction may include, but are not limited to:

1. making payment on a reimbursement basis;
2. requiring additional and/or more detailed financial or performance reports;
3. performing additional monitoring;
4. requiring the contractor to obtain specific technical or management assistance; and/or
5. establishing additional prior approvals.

Should the JTEC/Cape and Islands Workforce Development Board impose such funding restrictions, the contractor must be notified in writing as early as possible, of:

1. the nature of the funding restrictions;
2. the reason(s) for imposing the restrictions;
3. any corrective actions which must be taken before the restrictions will be removed, and the time allowed for completing the corrective actions; and
4. the method of requesting reconsideration of the restrictions imposed.

F. Selection of Contract Type

JTEC/Cape and Islands Workforce Development Board may choose from several types of contracts, depending on the circumstances. Examples are:

1. Cost Reimbursement

WIOA Regulations require that agreements between governmental units must be on a cost-reimbursement basis, including agreements with community colleges and Vocational Technical schools. This contract type may be required for funding of "high-risk" contractors.

2. Fixed Unit Price

Requires payment of a specified price for specified deliverables irrespective of actual costs incurred.

3. Combination Cost Reimbursement And Fixed Unit Price

Utilized when some elements of performance are clear and definitive while other performance specifications are more uncertain. Provides shared risk.

4. Letter Contracts/Limited Agreements

JTEC/Cape and Islands Workforce Development Board may use Letter Contracts/Limited Agreements to expedite entry into an agreement with a contractor only in emergency or unique situations. Letter/Agreements must include the specific time line of the agreement and the extent of JTEC/Cape and Islands Workforce Development Board financial and other liability. The agreement must include the signatures of all parties required as authorized signature for the full contract document, and may not obligate JTEC/Cape and Islands Workforce Development Board to enter into the final/full contract, should contract negotiations fail. Such agreements should include the following minimum provisions:

- a. Specific deliverables required by, and within the time frame of the limited agreement. This may be achieved through reference to the contract proposal.
- b. Ceiling price of the limited agreement and the anticipated ceiling price of the final/full contract pending.
- c. Limit of JTEC/Cape and Islands Workforce Development Board liability pending finalization of full contract document, including a provision that the limited agreement does not imply obligation to enter into a final/full contract.
- d. Incorporate JTEC/Cape and Islands Workforce Development Board standard terms and conditions boilerplate.
- e. Agreement active time period and execution date with all required authorized signatures.

Such agreements will not be used as, or in place of, full contract documents. Justification or explanation of the nature of the emergency or unique situation requiring the use of Letter Contracts/Limited Agreements will be maintained in the contract file.

VIII.

CONTRACT NEGOTIATION AND AWARD PROCEDURES

- A. Once the Cape and Islands Workforce Development Board has selected the offer(s) to accept and the LEO of Barnstable County has concurred, an award letter will be issued which transmits the acceptance of the offer with any required stipulations. The award letter will be signed by the President of JTEC.
- B. The offeror will then submit any additional information required in the award letter.
- C. The Contract Specialist/Program Monitor will draft a contract for the awarded services. The type contract: cost reimbursement, fixed unit price, combination: cost reimbursement and fixed unit price, will be determined by the Cape and Islands Workforce Development Board as part of the development of the RFP.
- D. The Cape and Islands Workforce Development Board may choose to utilize a Letter Contract/Limited Agreement after the contract award.
- E. A copy of the draft contract will be sent to the offeror.
- F. JTEC and the offeror's staff will then meet to review the contract. Minutes will be kept of the meeting and will be part of the contract file. At that time, the offeror may request the reinstatement of any items which were removed from the original proposal by JTEC staff or the Cape and Islands Workforce Development Board if they can provide substantial documentation of need. In addition, if the offeror identifies other changes which are needed in order to effectively operate the program, these items will be discussed and if the need is documented:
 - 1. and the changes do not significantly alter the technical or cost/price aspects of the proposal, they may be incorporated into the contract;
 - 2. or, if the changes significantly alter the technical or cost/price aspects of the proposal, it will be necessary for the proposal to be resubmitted for award consideration prior to contract execution by JTEC, Cape and Islands Workforce Development Board Executive Committee and Cape and Islands Workforce Development Board.

If the resubmitted proposal is not awarded the contract, the Cape and Islands Workforce Development Board will determine whether or not to

award the proposal to the second ranking proposal or to go back out for bid in which case the RFP process starts again from the beginning.

- G. A final contract will be written by the Contract/Quality Assurance Specialist.
- H. The contract will then be circulated to the appropriate Department Heads for approval of operational content; to the Director of Finance for approval of the financial information and payment section and to verify that funds are available.
- I. The contract will be sent to the offeror for signature.
- J. Contracts \$150,000 (Simplified Acquisition Threshold) or below are signed by the JTEC President for career center goods or services or by the CIWDB Executive Director for all of the CIWDB goods and services. Contracts above \$150,000 the Simplified Acquisition Threshold are signed by the JTEC President, JTEC Chairman and the CIWDB Executive Director and CIWDB Chairman.
- K. Subcontracts that are planned in the offeror's proposal will have to be submitted prior to the contract sign off by JTEC. Subcontracts arising during the period of performance of the contract must be executed in the manner prescribed in the contract terms and conditions. In all cases, subcontracts must be procured through the appropriate process in Section III based on subcontract dollar amount unless sole source procurement has been requested and granted in the original offer per Section IV.
- L. Contracts must be fully executed prior to the date that the contract begins. All contract modifications must be in accordance with the terms and conditions of the contract and fully executed prior to their commencement date.
- M. Contract Elements

Contracts will include all elements necessary to fully delineate JTEC's/Cape and Islands Workforce Development Board's and the contractor's responsibilities. These will be clearly documented through a combination of standard boilerplate and specific contract provisions. Proposals may be incorporated, in part or whole, by reference in the contract document.

The development and inclusion of specific contract elements will be effected by the determination of the service provider's status as a

subrecipient or a contractor. Aspects of the contract affected by this status may include, but are not limited to: cost classification, audit, and the general requirement to comply with WIOA and funding source regulation and policy. Although service providers may be considered subrecipients or contractors, all costs of contracts that are not exclusively for the provision of administrative functions are program costs.

1. A subrecipient is defined as a legal entity to which a sub-grant/contract is awarded and which is accountable to the Procuring Entity (or higher tier subrecipient) for use of the funds provided. Distinguishing characteristics of a subrecipient include items such as: developing and operating programs specifically designed for a federal program which may include determining eligibility of applicants, enrollment of participants, performance measured against meeting the objectives of the program, responsibility for programmatic decision making, responsibility for compliance with program requirements, and use of the funds awarded to carry out a program or project as compared to providing "end-line" goods or services for use by a program or project (contractor). Subrecipient contracts/agreements identify the source of funds (e.g., WIOA) and require compliance with all related regulations and policy, including but not limited to, appropriate identification and classification of all costs incurred and coverage under required audits.
2. A contractor is defined as an entity that receives a contract, is responsible for providing generally required "endline" goods or services to be used by the program or project. These goods or services may be for the subrecipient's own use or for the use of participants in the program/project. Distinguishing characteristics of a contractor include items such as: providing the goods and services within normal business operation; providing similar goods or services to many different purchasers, including purchasers outside of the program; and operating in a competitive environment. Contractors are not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

3. Required Contract Elements

Contracts should contain the following elements, where applicable:

- a. names of responsible parties and organizations
- b. type of contracting organization
- c. type of contract
- d. amount of contract obligation
- e. source of contract funds

- f. training site(s)
- g. contract effective time period
- h. number of participants to be served
- i. signature of authorized officials
- j. document execution date(s)
- k. statement of work/deliverables including goal statement/objectives, target group, justification for services products/outcomes/performance required, outreach/intake and assessment, program design/curriculum, frequency of participant contact, activity time line, and follow-up
- l. cost reimbursement line item budget data by cost category
- m. payment and delivery terms/invoice forms and procedures
- n. termination for cause/default/de-obligation/convenience
- o. audit and record access and examination rights
- p. record retention requirements
- q. compliance with related federal state and local laws, regulations and policies
- r. conflict of interest and code of conduct requirements
- s. debarment and suspension certification
- t. anti-lobbying disclosure
- u. provision against assignment/unauthorized subcontracting
- v. procedures for changes/modifications
- w. definitions of key terms
- x. staff qualifications
- y. reporting requirements - program and fiscal
- z. table of contents
- aa. AA/EEO/non-discrimination
- bb. contractor insurance liability/bonding
- cc. grievance procedures for termination and non-payment
- dd. monitoring/corrective action/sanctions procedures
- ee. equipment and property allowance/disposition
- ff. severability provision
- gg. hold harmless clause
- hh. maintenance of effort clause
- ii. program income or work product requirements
- jj. individual authorized to sign invoices/request payment
- kk. operational plan - participant activity/expense schedule
- ll. protests/disputes/claims clause
- mm. subcontracting clause
- nn. Pell Grant/cost reduction clause
- oo. fund advance/reconciliation & recapture clause
- pp. contract close-out requirements
- qq. single audit or other audit requirement
- rr. program income or profit requirements

IX. CONTRACT ADMINISTRATION

The primary purpose of Contract Administration is to ensure subrecipient/contractor compliance with all contractual obligations; including, but not limited to, program performance and financial considerations. Policy and procedural guidance will include:

1. provisions to ensure payments consistent with contract terms;
 2. provision for inspecting/monitoring work performed to ensure consistency with the contract terms;
 3. procedures to provide technical assistance to contractors;
 4. criteria and procedures for contract change/modification;
 5. procedures for the review, approval and monitoring of sub-agreement procurements and contract documents;
 6. procedures to execute termination provisions as stipulated in contract documents;
 7. procedures to resolve contract protests/disputes/claims as stipulated in contract documents;
 8. procedures to develop and monitor corrective actions as stipulated in contract documents;
 9. required contract file documentation and retention procedures; and
 10. procedures to close-out contracts and related reporting requirements.
- A. For cost reimbursement contracts, the contractor will submit the reimbursement request on the forms contained in the contract document to the Finance Department. The request will contain all required back up documentation to substantiate the request. The Finance Department staff will review the submitted documentation against the line item budget contained in the contract document to ascertain the appropriateness of the expenses.
1. The Director of Finance will send the reimbursement request to the Department Head responsible for the interface with the contractor to determine if the invoice and backup documentation support the contractor's activities for the period of time covered by the invoice.
 2. If the Department Head believes that the invoice corresponds with the activities that have been performed under the contract, and the contractor has submitted all of the paperwork/documentation that is due during the period covered by the invoice, he/she will approve the invoice and send it back to the Director of Finance.

3. If the Director of Finance determines that the request and accompanying documentation is accurate, the invoice will be processed for payment.
 4. If the Department Head determines the required services have not been performed or the Director of Finance determines the request does not coincide with the line item budget or individual expenses are over their line thresholds, the invoice will be returned to the contractor with an explanation of the required adjustments. A partial payment will be made for some elements that have been provided and are appropriate, a written explanation of the non-paid items will be provide to the contractor.
 5. Once the required elements/services are provided, the contractor may rebill for those services and the process in Section IX A 1-4 will occur again.
 6. If the cost for the required services is higher than the amounts contained in the line item budget, the contractor may request a contract modification as delineated in Section IX D.
- B. In cost reimbursement contracts a cumulative spreadsheet of payments made will be maintained by the Staff Accountant to avoid duplicate payments or payments in excess of line item amounts.
- C. Prior to the commencement of the contract, but subsequent to its full execution, a meeting will be held between the contractor's staff and the appropriate JTEC staff to explain the proper procedures for the successful execution of the contract. During this meeting, technical assistance will be provided on any areas of concern to the contractor. If technical concerns arise after this meeting, the contractor may contact the JTEC Department Head whose department is using its services or the JTEC President for assistance. Upon request, assistance will be provided in an appropriate format.
- D. Modifications to contracts may be made under the following conditions:
1. in cases where new methods of service delivery are deemed by JTEC/Cape and Islands Workforce Development Board to be more appropriate to

the program outcome desired under this contract, i.e. if it becomes more appropriate to teach Excel through the advanced level rather than only through the initial level;

2. in cases where regulatory changes require a contract modification;
 3. in cases where contracts are intermittently funded, (for example when one cycle is funded with the agreement to fund subsequent cycles based on performance and/or in other criteria such as need) each time additional funds are added to the contract, it must be modified to show the new cost;
 4. in cases where it is determined that additional activities under the scope of work section would be beneficial to the desired outcomes of the program or service provided by the contractor;
 5. in cases where an error is discovered in the contract which both parties subsequently realize was inadvertently made;
 6. in cases where administrative changes are required; and/or
 7. in cases where JTEC/Cape and Islands Workforce Development Board decides to accept a second year option which was contained in the original offer and reviewed in this second funding year like all similar proposals.
- E. Decisions to execute termination clauses are contained within the contract document and will be made by the President of JTEC and the Cape and Islands Workforce Development Board Executive Director. Notice of termination will be mailed to the contractor by registered mail, return receipt requested. Appeals will follow the WIOA Unified Compliance Policy.
- F. Procedures to resolve contract disputes are contained in the terms and conditions of the contract document.

G. Subcontracts will be addressed as follows:

- All subcontracts must follow applicable procurement procedures based on dollar amounts as contained in Section II and be approved by JTEC/Cape and Islands Workforce Development Board.
- The offeror shall obtain the written consent of the contracting officer prior to placing any subcontract.
- In a cost reimbursement contract, no subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage basis.
- The consent, approval, or ratification of a subcontract or any terms thereof, shall not put the contracting officer in contractual privity with the subcontractor; shall not, unless otherwise stated, constitute an endorsement or approval of any provision of the subcontract; and shall not relieve the contractor of his/her responsibility for the performance and provision of services under this contract.
- All subcontracts will be monitored as part of the monitoring of the full contract utilizing the Monitoring Systems Manual.

H. Approval of Contract Modifications

If a modification results in an increase in the contract cost of less than \$15,000, and results in an increase in the contract cost of less than 10% and does not change the performance standards included in the original Request for Proposal, the modification is approved by the JTEC President. For example, if the total contract amount is \$15,000 and a modification request is received from the vendor to increase the contract amount by \$1,000 because support services for participants by the contractor was inadvertently left out of the original proposal, the following analysis would apply. The modification request is below the 10% of the total contract amount at 6.66% of the original contract amount, therefore, it would not have to go back to the Cape and Islands Workforce Development Board.

In example 2, the total contract amount is \$10,000 and the

modification request is for \$1,600 because transportation of participants to and from the program by the contractor was inadvertently left out of the original proposal. This modification is less than the \$15,000 ceiling, but equal to 16% of the original contract value, therefore, it would have to go before the Cape and Islands Workforce Development Board for approval. If the modification was for \$1,000 it would not have to go back to the Cape and Islands Workforce Development Board.

In both cases, the modification would have to go through a cost/price analysis prior to approval.

- I. Procedures to develop and monitor corrective actions are contained in JTEC's Monitoring Systems Manual.
- J. Required contract file documentation and retention procedures are contained in the terms and conditions of the contract document.
- K. Procedures to closeout contracts and related reporting requirements are contained in the contract document.
- L. Contract files will be centralized with the Contract/Quality Assurance Specialist and will contain, at a minimum:
 - 1. a signed copy of the contract with original signatures;
 - 2. signed copy of any subsequent modifications with original signatures;
 - 3. contract cost/ pricing data;
 - 4. contract proposal, if incorporated by reference;
 - 5. pre-award surveys or review data;
 - 6. subcontract/sub-agreement approvals;
 - 7. copies of required insurance policies and bonds;
 - 8. copies of any JTEC and contractor correspondence;
 - 9. monitoring reports/corrective actions/follow up records; and
 - 10. contractor reports on deliverables provided.

Contract payment files will be centralized with the Director of Finance and will contain:

- 1. invoice/billing and records of payment documentation;

2. records of cash advances and liquidation of funds;
3. equipment acquisition and property disposition records;
4. documentation related to termination actions; and
5. contract closeout reports and related documentation.

Each contract file will contain a Contract File Checklist (Attachment Y) which will be kept up to date by the Contract/Quality Assurance Specialist.

X. CONTRACT MONITORING

JTEC's Monitoring Manual addresses contract monitoring, including systems for both program and financial monitoring to ensure contractor compliance with all elements of the contractual agreement. Monitoring documentation includes:

1. the method of identification of deficiencies;
2. results of monitoring reviews;
3. written notice to contractors regarding deficiencies;
4. corrective action plans; and
5. follow-up and resolution of corrective actions.

Monitoring is performed on-site at least once each program year. Financial monitoring ensures that auditable records of financial activity are maintained and retained. The Director of Finance conducts monitoring of all contracts by reviewing all payment requests which require complete and detailed supporting documents which justify the requested reimbursement.

A. Fiscal Monitoring is conducted as each invoice for payment is received and includes:

1. allowability of costs;
2. cost classification and allocation;
3. invoicing;
4. cash disbursements;
5. subcontract/sub-agreement review;
6. property/equipment management;
7. purchasing or rental of equipment;
8. matching funds procedures and documentation;
9. determination of program income/profit;
10. compliance with all related Federal, State and Local laws, regulations, policies and contractual requirements; and
11. determination that financial performance is commensurate with program performance.

B. Program Monitoring addresses the following areas:

1. provision of quality services;
2. performance monitoring to ensure achievement of contract objectives/contractual obligation; and
3. compliance monitoring to ensure satisfaction of contractual and regulatory requirements.

C. Program Performance Monitoring includes:

1. quality of participant enrollment/intake;
2. quality/quantity of participant counseling;
3. quality of participant orientation;
4. quality of training provision;
5. quality of case management records and systems;
6. quality of job development and placement activity;
7. quality/allowability of participant support services;
8. contractors personnel systems;
9. termination and follow-up;
10. level of outcome performance;
11. subcontract/sub-agreement program/performance review;
12. achievement of other specific contractual objectives; and
13. compliance with all related Federal, State and Local laws, regulations, policy and contractual requirements.

D. Contract Corrective Action

JTEC/Cape and Islands Workforce Development Board has systems to document and resolve contract corrective actions in the Monitoring System Manual as stipulated in the contract document. Procedures designate authority and responsibility for development, monitoring and follow-up of corrective action plans. The corrective action plan defines the deficiency, states all resolution actions required, provides a time line for resolution, and includes follow-up verification.

E. Contract Close-Out

JTEC documents contract close-out. Contractors are required to close-out agreements in a timely manner (consistent with close-out reporting requirements). Close-out reports include the following minimum items:

1. statement of subcontract/sub-agreement termination;
2. statement of status of cash accounts and liquidation of advances;

3. statement of settlement of all contract related financial or other liabilities;
4. statement releasing JTEC/Cape and Islands Workforce Development Board from any further liability;
5. assignment of any refunds, rebates, or credits due;
6. statement of program income/profit and its disposition;
7. final invoice for payment;
8. reason for termination (completion or other); and
9. any other reports required by the contract document.

Close Out Reports are submitted with the final invoice for payment.

- F. Program Monitoring and Performance Monitoring will be done concurrently.
- G. The JTEC Monitoring System Manual details the monitoring policies and procedures.
- H. Awarding agency review

DCS will review JTEC's/Cape and Islands Workforce Development Board's procurement system during the annual monitoring and at other times as it deems necessary to determine whether the system meets these standards in order for the system to be certified. For construction or facility improvements, DCS prior approval must be obtained.

List of Attachments

	Page
A. JTEC Employee/Board Conflict of Interest Policy Statement	50-51
B. CIWDB Conflict of Interest Policy Statement	52
C. Evaluation Committee Conflict of Interest/Non-Disclosure Statement	53
D. Evaluation Committee Disclosure Statement	54
E. JTEC Adverse Action Policy	55-63
F. Staff/Board Member Code of Conduct	64-65
G. Cape and Islands Unified Complaint Procedures	66-177
H. Small Purchase Procurement Package	178
I. Mass Workforce Issuance 100 DCS 14.100.3 Massachusetts Eligible Training Provider List (MA ETPL) Initial and Subsequent Eligibility Process dated August 15, 2017	179-188
J. Sample Procurement File Checklist	189
K. Requisition Form	190
L. Pre-Requisition Form	191
M. Price Analysis for Goods and Services Between \$3,500 and \$150, 000	192
N. Timeline for Solicitation of Program and Service Procurements for Solicitations Over \$150,000 (Simplified Acquisition Threshold)	193-194
O. Sample Qualifying Criteria	195
P. Sample Selection Criteria	196-206
Q. Sample Solicitation Publication Notice	207
R. Proposal Log	208
S. Evaluation Committee Scoring Chart	209
T. Program Funding Recommendations Chart	210
U. Program Fact Sheet	211
V. Price Analysis	212-213
W. Sample Cost Analysis	214-220
X. Mass Workforce Issuance Procurement and Contracting 100 DCS 01.102 dated May 12, 2016	221-251
Y. Contract File Checklist	252

JOB TRAINING AND EMPLOYMENT CORPORATION
EMPLOYEE/BOARD MEMBER CONFLICT OF INTEREST POLICY
STATEMENT

- It is a breach of ethical standards for an employee to participate directly or indirectly in a procurement when:
 - The employee/Board member or immediate member of his/her family has financial interest in the procurement;
 - A business organization in which employee/Board member or any member of immediate family has a financial interest pertaining to the procurement; (immediate family is defined as spouse, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, grandmother, grandfather, stepparent, stepchild whether such relation is by blood or by marriage) or
 - Any other person, business, or organization with whom employee/Board member or any immediate family member is negotiating or has arrangement concerning prospective employment is involved in the procurement.
- Where an employee/Board member or immediate family member holds financial interest in a blind trust, there will be no conflict of interest, provided that the blind trust has been disclosed to the President for staff members and the Chairman of the JTEC Board for board members and the President.
- Whenever the employee/Board member discovers or becomes aware of such an actual or potential conflict, he/she should promptly withdraw from the procurement.

Disclosure

- Any employee/Board member who has or obtains any benefit from any contract with an organization in which he/she has financial interest must report this to the appropriate official or group, except when that interest has been placed in a disclosed blind trust. In the case of employees, this interest must be reported to the President. In the case of Board members, this interest must be reported to the Chairperson.

Gratuities and Kickbacks

- It is a breach of ethical standards for anyone to offer, give or agree to give any employee/Board member or former employer, or for an employee/Board member or former employee/Board member to accept from another person, a gratuity or an offer of employment in connection with any aspect of a procurement.
- It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor, or any person associated with these, as an inducement for the award of a subcontract.

Prohibition Against Contingent Fees

- It shall be a breach of ethical standards for anyone to be retained, or to retain anyone, to solicit or secure a contract for a commission, brokerage or contingent fee or the promise of such payments. This prohibition does not apply to the hiring of bona fide employees of an organization or to retaining a bona fide commercial selling organization.

Restrictions on Employment of Present or Former Employees

- Any employee/Board member may not be hired by any organization or individual contracting with the agency as an employee in the contract in which the individual was involved for at least one year after leaving JTEC's employment or Board membership.

Use of Confidential Information

- It is a breach of ethical standards for any employee/Board member or former employee/Board member to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

I have read, understand and will comply with the policy statement on Conflict of Interest.

Signature

Date

Witness

Date

**CONFLICT OF INTEREST
CAPE AND ISLANDS WORKFORCE
DEVELOPMENT BOARD MEMBERS AND CAPE
AND ISLANDS WORKFORCE DEVELOPMENT
BOARD STAFF**

Solicitation Name: _____

WIOA (sec. 117 (g)): Conflict of Interest -- A member of a local board may not --
(1) vote on a matter under consideration by the local board-
(A) regarding the provision of services by such member (or
by an entity that such member represents); or
(B) that would provide direct financial benefit to such member or
the immediate family of such member; or
(2) engage in any other activity determined by the Governor to
constitute a conflict as specified in the State plan.

I have been presented with copies of the following documents provided by the State Ethics Commission:

1. An Introduction to the Conflict of Interest Law
2. An introduction to the Conflict of Interest Law for the Private Sector
3. Guide to the Conflict of Interest Law for County Employees

I will at all times conduct myself as a member/staff of the Cape and Islands Workforce Development Board in such a manner as to avoid conflict of interest or the appearance of conflict.

I will notify the Chair or Executive Director of the Cape and Islands Workforce Development Board of any situation that I believe has the potential of being in conflict or giving the appearance of being in conflict. I will excuse myself from any Cape and Islands Workforce Development Board processes to avoid situations of conflict or abide by any decision related to my participation that is in compliance with the bylaws of the Cape and Islands Workforce Development Board.

I have been made aware of the following **General Laws of Massachusetts:**
Chapter 268A. CONDUCT OF PUBLIC OFFICIALS AND EMPLOYEES.
Chapter 268B. FINANCIAL DISCLOSURE BY CERTAIN PUBLIC
OFFICIALS AND EMPLOYEES.

ACKNOWLEDGEMENT:

I the undersigned, acknowledge the Conflict of Interest responsibility that is summarized above as a member of the Cape and Islands Workforce Development Board, and Cape and Islands Workforce Development Board staff. By my signature below, I am declaring that I will conduct myself within the intent, spirit and letter of the Conflict of Interest Laws.

Print Name

Signature

Date

Title

**EVALUATION COMMITTEE CONFLICT OF INTEREST/NON-
DISCLOSURE STATEMENT**

RFP/Solicitation Title _____

I acknowledge that I have been appointed to conduct reviews of proposals received under the solicitation cited above. I have been briefed about my responsibilities relating to conflict of interest and non-disclosure of information obtained during these reviews. I have also been briefed on the conflict of interest rules adopted by the Cape and Islands Workforce Development Board and currently in effect.

I do not have any conflict of interest, personal or organizational, real or apparent, in participating in this procurement. If during the course of reviewing the proposals received in response to this solicitation, I become aware of an actual or possible conflict of interest, I will notify the Chair of the review group and seek his/her advice on withdrawing from the reviewing group.

Further, I will disclose no information obtained in reviewing proposals under this solicitation to anyone not also participating in this review. Specifically, I will not disclose the number of respondents to the solicitation; the names of individuals and organizations that respond; nor will I disclose any information from technical or cost/pricing submissions of these offers; except to other reviewers officially assigned to this solicitation.

Finally, if anyone outside the official review chain seeks information about the procurement, I will not supply any information, but will refer him or her to the Job Training and Employment Corporation President heading this procurement.

Name

Signature

Title

Date

EVALUATION COMMITTEE DISCLOSURE STATEMENT

RFP/Solicitation Title _____

I acknowledge that I have been appointed to conduct reviews of proposals received under the solicitation cited above. I have been briefed about my Responsibilities relating to conflict of interest and non-disclosure of information obtained during these reviews. I have also been briefed on the conflict of interest rules adopted by the Cape and Islands Workforce Development Board and currently in effect.

During the course of reviewing the proposals received in response to this solicitation, I have become aware of an actual or possible conflict of interest. I believe that I have a conflict because:

Name

Signature

Title

Date

Disposition: _____

Chairman CIWDB or JTEC
Signature

Date

JOB TRAINING AND EMPLOYMENT CORPORATION

STAFF ADVERSE ACTION PROCEDURES

DEFINITIONS:

Adverse Action: Disciplinary action taken against a staff member for unsatisfactory work performance or behavior. Adverse Action includes aggressive discipline up to and including termination.

Work Performance: Work Performance includes, but is not limited to, that which can be measured in operational quantities, i.e., planned vs. actual performance, completion of assigned work, ability to work as part of a team, quality of work, goal attainment, job knowledge, administrative ability, etc.

Employee Conduct-

Rules and Regulations: In order to ensure orderly operations and provide a safe and productive work environment for all, it is important that we establish certain rules of general conduct.

It is impossible to address all or even most rules and regulations, which govern our workplace but we have provided examples of unacceptable conduct that will lead to discipline and, in some cases, immediate termination. Suffice it is to say that employees of JTEC are expected to live up to all federal, state, and local laws, to contribute to a pleasant and safe work environment, and to support the success of the Corporation in words and deeds, and to comply with all policies and procedures in this handbook.

The following list will help you understand some of JTEC's rules of unacceptable conduct. If you are not sure about our standards of conduct, please ask a supervisor or JTEC's President before proceeding.

Unacceptable conduct may result in disciplinary action, up to and including termination. Examples of unacceptable conduct include the following:

- substantiated complaints by co-workers, supervisors, or customers concerning the employee's misconduct or performance;
- inconsiderate treatment of employees or customers, or inability to cooperate with co-workers, subcontractors or supervisors;
- sleeping on the job;
- mistreatment of JTEC vehicles or property; or unauthorized use of any JTEC vehicle, equipment or machinery;
- use of computers to access the internet at any time during office hours for any purpose other than one directly related to work;
- dishonesty or failure to report dishonest acts, whether knowledge of such act or plan is obtained directly or indirectly;
- failure to adhere to work schedules or absence without permission; loafing; unauthorized use of time; or use of work time for personal business;
- absenteeism and/or tardiness;
- insufficient, careless work performance, neglect of duties, substandard work performance or frequent errors;
- violation of JTEC's harassment policy or harassment of another individual;
- repeatedly reporting to work wearing inappropriate attire;

- violation of the safety standards or risking the safety of oneself or another;
- use of profane, abusive or threatening language to fellow workers, supervisors or customer;
- inability or unwillingness to cooperate with co-workers;
- distracting co-workers; interfering with other workers' performance; disrupting the workplace with unnecessary noise or actions or causing false alarm or panic in the workplace;
- causing or contributing to unsanitary work conditions;
- violation of JTEC's rules against solicitations;
- unauthorized posting of materials on the bulletin board; defacement or alteration of any posting on JTEC bulletin boards;
- deliberately delaying or restricting productivity, or inciting others to delay or restrict productivity: and/or
- horseplay or malicious mischief, such as damaging or hiding property of another employee or of JTEC.

Major Violations - The following misconduct will be deemed deliberate or willful and will result in immediate termination:

- A. fighting or the use of hostile physical force against any person during working hours;
- B. repeated occurrences of related or unrelated minor violations depending upon the severity of the violation and the circumstances;

- C. any act which might endanger the safety or lives of others;
- D. departing JTEC premises during working hours for personal reasons without the permission of the supervisor;
- E. bringing firearms or weapons onto JTEC premises;
- F. stealing, destroying, abusing, or mismanaging JTEC property, tools, equipment or the property of another employee;
- G. disclosure of confidential JTEC information or trade secrets to unauthorized persons;
- H. willfully disregarding JTEC policies or procedures;
- I. willfully falsifying any JTEC records;
- J. failing to report to work without excuse or approval of management for two consecutive days;
- K. abuse or inconsiderate treatment of employees or customers, or inability to cooperate with co-workers, subcontractors or supervisors;
- L. drinking and driving a JTEC-owned vehicle will be grounds for immediate dismissal;
- M. intoxication during working hours or while on JTEC controlled premises or work premises;
- N. possession, use, sale, purchase, distribution or offer to hold, sell or distribute drugs or alcohol on work premises or at any time during working hours;
- O. gambling, in any form, on JTEC controlled premises or work premises or at any time during working hours;
- P. falsification or omission of records, including but not limited to, time records, accounts payable, accounts receivable, etc.;
- Q. violating client confidentiality;

- R. refusal to perform work as assigned; and/or
- S. fighting or use of hostile physical force against any person during working hours.

Poor performance, violations of JTEC rules, safety measures, or accepted standards of conduct will result in appropriate disciplinary action being taken.

The action taken will be based on the nature of the problem and the employee's previous performance record. JTEC may take disciplinary action to include termination without notice. Only when it is felt that verbal or written notice may help to permanently correct a bad situation will verbal or written notice be given. Again, depending on the circumstances of the situation, if an initial notice is given, there may or may not be a follow up notice. Each situation is considered different and will be handled in a manner deemed most appropriate at the time.

The following factors have a bearing on disciplinary action and dismissal, and the serving of notice(s), but are not exhaustive:

- severity of the problem/incident at hand;
- long term loyalty of the employee;
- performance history; and/or
- JTEC's current employment needs.

An employee who believes that any disciplinary action taken is unfair or unwarranted may request that JTEC's President review the matter.

PROCEDURES

Unless the gravity of the offense warrants immediate termination, before any JTEC employee is terminated, the employee must be given at least two (2) warnings by their immediate supervisor. The first warning may or may not be verbal.

1. FIRST WARNING

An initial warning to a JTEC employee may or may not be verbal. If the first warning is verbal, the supervisor must confirm in writing, the dates and reasons for the verbal warning in a memorandum addressed to the employee. The supervisor must specify that a verbal warning is being given. A copy of the recorded action must be sent to the President for inclusion in the employee's personnel file and to the supervisor's Department Head. The identification of the problem area and the time frame within which the staff member has to improve must be described and specified. In cases where work performance is the subject of adverse action, a minimum of one (1) week is advised. In the cases where work behavior is the subject of adverse action a minimum of twenty-four (24) hours to correct the behavioral problem is advised.

2. SECOND WARNING

When the need arises for a subsequent warning, the second warning must be in writing with a copy to the staff member's personnel file. A sample warning letter is attached (Attachment 1). The supervisor must review and discuss the issues presented in the written warning with the employee on the date it is issued. The supervisor issuing the warning should forward a copy to his/her Department Head and the President for inclusion in the employee's personnel file. Whenever and wherever appropriate an Employee Performance Evaluation Record may be completed.

The second warning shall specify the following:

- a) the time and date of the initial warning;
- b) why the employee's work performance and/or behavior has been unsatisfactory or improper; and
- c) a specific time frame within which improvement is expected. In cases where work performance is the subject of adverse action, a minimum of one (1) week to improve is advised. In cases where work behavior is the subject of adverse action, a minimum of twenty-four (24) hours to correct the behavioral problem is advised.

3. TERMINATION LETTER

If improvement does not occur, or subsequent poor work performance or unacceptable work behavior occurs, the supervisor may recommend termination of the employee to his/her Department Head and to the President in writing. If the Department Head and the President concur, the employee will receive a Notice of Termination signed by the

supervisor, Department Head, and the President. A sample Notice of Termination is attached (Attachment 2). Copies will be forwarded to appropriate personnel and included in the employee's personnel file.

4. The procedures stipulated in Section 1 and 2 may be waived and an employee may be asked to leave the workplace immediately by their supervisor if the President decides that it is in the best interest of the employee or the agency to do so, or if the employee's behavior is found to be a "major violation".
5. The employee has the right to file a grievance with the President if he/she feels the adverse action implemented violates the JTEC Affirmative Action Policy, the Equal Employment Opportunity Policy, or their rights as an employee of JTEC.

Attachment 1

JOB TRAINING AND EMPLOYMENT CORPORATION

EMPLOYEE WARNING FORMAT

Dear _____:

Your work performance/behavior has been unsatisfactory for the following reasons:

Describe unsatisfactory work performance and/or inappropriate work behavior; list the date of the initial warning; dates of subsequent infractions, and specify the time period in which improvement is required.

If you do not improve within the specific time period, or if subsequent poor work performance/inappropriate behavior occurs, you will be subject to termination.

I have read and understand the above warning.

Employee's Signature

Date

Supervisor's Signature

Date

cc: President (Personnel File)

Attachment 2

JOB TRAINING AND EMPLOYMENT CORPORATION

NOTICE OF EMPLOYMENT TERMINATION FORMAT

Dear _____:

As a result of continued poor work performance and/or inappropriate work behavior, you are hereby notified of your employment termination from Job Training and Employment Corporation, effective _____.

Date

This decision is based on the following:

(Recap prior instances and dates which have resulted in dismissal. Include dates in which warnings were issued).

Supervisor's Signature

Date

Department Head's Signature

Date

President's Signature

Date

cc: President (Personnel File)
Department Head

STAFF/BOARD MEMBER CODE OF CONDUCT

No Job Training and Employment Corporation staff/Board member or Cape and Islands Workforce Development Board staff/Board member shall:

- a. Accept any direct or indirect financial benefit from any source other than the Job Training and Employment Corporation or the Cape and Islands Workforce Development Board as a result of the performance of official duties relating to JTEC/Cape and Islands Workforce Development Board.
- b. Accept any position, whether compensated or uncompensated, which will impair independence of judgement in the exercise of official duties relating to JTEC/Cape and Islands Workforce Development Board.
- c. Accept any position or engage in any business which will require the disclosure of confidential information gained by reason of an official position with JTEC/Cape and Islands Workforce Development Board.
- d. Improperly disclose confidential information acquired during the performance of official duties or use such information to further personal gain. Prohibitions may include, but are not limited to such non-disclosure of procurement plans, proposal cost/price and technical information, relative scores or standing of bidders/offers prior to award, advance solicitation notification (prior to public announcement), or disclosure of any information which may compromise the fairness or objectivity of the procurement process resulting in a competitive advantage to one or more offerors.
- e. Use or attempt to use an official position to secure unwarranted privileges or exemptions personally or on behalf of others or give the appearance of such action.
- f. By conduct, give reasonable basis for the impression that any person or organization can improperly influence the performance of official duties.
- g. Pursue a course of conduct which will raise suspicion among citizens that acts engaged in are in violation of public trust.
- h. Pursue any other course of conduct which will give rise to a violation of the conflict of interest statutes.
- i. Take part in any political activities in violation of the Federal Hatch Act as it appears to their official position at JTEC/Cape and Island Workforce Development Board.
- j. Take part in any religious or anti-religious activity in the discharge of official JTEC/Cape and Island Workforce Development Board responsibilities.
- k. Promote or oppose unionization in the discharge of official JTEC/Cape and Island Workforce Development Board duties; however education is permitted.

- I. Participate in any effort to violate any applicable federal, state and local laws and regulations.

Violation of any provision of this Code of Conduct by staff may be cause for immediate dismissal; violations by Board members may be cause for suspension or removal from the Board; and are subject to any penalties, sanctions or other disciplinary measures set forth in applicable federal, state or local laws.

Name

Signature

Date Received

Attachment G

**Unified Workforce Development System Complaint and Appeals
Process**

The Cape and Islands Workforce Development Area follows the Mass
Workforce Issuance 100 DCS 03.101.2 Unified Workforce Development System
Complaint and Appeals Process.

MASSACHUSETTS WORKFORCE DEVELOPMENT SYSTEM

Mass Workforce Issuance

100 DCS 03.101.2

☒ Policy ☐ Information

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

cc: WIOA State Partners

From: Alice Sweeney, Director
Department of Career Services

Date: May 29, 2018

Subject: Unified Workforce Development System Complaint and Appeals Process
(Revised)

Purpose: To revise guidance to Local Workforce Development Boards (Local Boards), One-Stop Career Center (OSCC) Operators, Fiscal Agents, Title I Administrators, local workforce partners and service providers regarding the policies and procedures for the local workforce system to process complaints brought by customers and/or other interested parties related to services/activities covered by the Workforce Innovation and Opportunity Act (WIOA).

As part of a Unified Workforce Development System Complaint Process, the purpose of this policy is twofold:

- (1) to provide guidance specific to alleged violations (by action or omission) related to services funded under Title I of WIOA and the Wagner-Peyser Act, as Amended; and
- (2) to delineate procedures for initiating resolution of appeals, and for complaints related to other federal or state statutory requirements, including Equal Opportunity (EO) complaints.

Background: Requirements related to the establishment and administration of complaint procedures related to services/activities funded under Title I of the WIOA are promulgated at 20 CFR, Ch. V, § 683.600 – 683.650. Requirements related to

services/activities funded under the Wagner-Peyser Act, as Amended (Title III of the Workforce Investment Act) are separately promulgated at 20 CFR Ch. V, § 658.400 - § 658.419; 20 CFR § 500 – 504 (Discontinuation of Services to Employers). Both sets of regulations require the establishment of a local process to handle complaints brought forward by consumers of the respective program's services. The processes for handling complaints as described in the two sets of regulations, however, employ two distinct sets of timeframes within which actions are to be taken and/or completed.

In order to further promote the ideal of a seamless One-Stop Career Center system as envisioned by WIOA, the Commonwealth has developed a model for a unified complaint system that covers the requirements of both WIOA and Wagner-Peyser. The model streamlines state and local processes (including procedures pertaining to the appeal of local determinations to the State level and, if necessary, beyond) into a single, unified complaint system.

Policy:

Consistent with the regulations promulgated at 20 CFR §679.290 and 20 CFR 683.600 – 683.650 and also at 20 CFR Ch. V, §658.400 - §658.419, describing complaint system requirements for all direct recipients* of WIOA Title I funds (excluding Job Corps) and Wagner-Peyser funds (Title III), all local workforce area entities and WIOA service providers including all Workforce Boards, One-Stop Career Centers, Fiscal Agents and service providers must establish and maintain a formal unified process for the submission and resolution of complaints and appeals initiated by either customers or other interested parties that is consistent with the guidance described, herein and detailed in Attachment A.

** NOTE: Direct recipients may include State Agencies, State and Local Workforce Development Boards, One-Stop Career Center operators, Career Center partners, local WIOA administrative entities, their service providers, including eligible training providers and entities providing non-WIOA funds or resources to meet matching requirements or other conditions under WIOA.*

Formal complaints may be submitted in accordance with this policy by an individual or group of individuals, an employer or group of employers, a staff person or persons or an interested third party acting on behalf of an individual, group of individuals, an employer or group of employers.

Under this policy each Local Board must assure that the WIOA entities (including the Local Board, the One-Stop Career Center(s), the Title I Administrator and the Fiscal Agent) and local partners and service providers designate an appropriate number of Complaint Officers (CO) and Equal Opportunity Officers (EOO) whose responsibility it is to conduct the initial review of relevant complaints and to determine the correct jurisdiction and adjudication path to be followed to reach a resolution. The designated CO(s) and EOO(s) can draw upon the expertise of program staff knowledgeable of the rules and regulations of the specific program(s) under which the complaint has been initiated as long as the perception of any conflict of interest has not been identified.

The state manager at each OSCC must be responsible for the operation of the Complaint System and have a designated and trained Complaint and EO officer.

Complaint and EO Officers must:

- be readily available to receive a complaint from a customer and/or interested party
- ensure that during the time of the filing of the complaint or thereafter that the perception of any conflict of interest has not been identified. If a conflict has been identified then the officer must reclude themselves immediately

Each Career Center must identify a back-up staff person for both the Complaint and/or the EO officer, as applicable.

Any provisions contained in WIOA, the Wagner-Peyser Act, as Amended, their regulations, or other applicable laws and regulations shall apply even if not explicitly stated in this policy. Neither shall any part of this policy be construed to contradict current Federal requirements.

Action

Required:

This policy is in effect for all direct recipients of WIOA Title I and Wagner-Peyser (WIOA Title III) funds provided through the Executive Office of Labor and Workforce Development, any of its subdivisions, or the Commonwealth Corporation for each Massachusetts Workforce Development Area.

Each LWDB should review its current OSCC's complaint resolution policies and procedures for consistency with both WIOA regulations and the guidance provided herein, including the procedural guidance outlined in Attachment A. Each LWDB should also assure that all local staff persons are knowledgeable of the content of this policy and related Attachments.

Effective:

Effective immediately for all Workforce Innovation and Opportunity Act funds provided directly through the Executive Office of Labor and Workforce Development (EOLWD), the Department of Career Services (DCS) or the Commonwealth Corporation.

References:

Title 20, Chapter V, Parts: 658.400 – 419, 658.500 – 504, 679.290, 683.600 – 650, Title 29, Subtitle A, Parts 38, subpart 38.1 – 24, Subpart B 38.25 – 38.45, Subpart D 38.609 – 38.97
Training and Employment Guidance Letter 37-14

Inquiries:

Please direct all questions to PolicyQA@MassMail.State.MA.US. Also, indicate Issuance number and description.

Attachments:

03-101-2A:	Unified Complaint System Required Elements	
03-101-2A:1	Unified Complaint System Common Steps	
03-101-2A:2	Complaint Covered and Procedures	
03-101-2A:3	Complaint NOT Covered and Procedures	
03-101-2B	Jurisdiction and Timeframes	
03-101-2C:	Sample Informal Resolution Flow Chart	
03-101-2C:1	Complaint Process Flow Chart – (Wagner-Peyser Title III)	
03-101-2C:2	Complaint Process Flow Chart – (WIOA - Title I)	
03-101-2D:	Unified Workforce Development System Complaint Referral Record	
03-101-2D:1	Unified Workforce Development System Complaint Referral Record Form instructions	
03-101-2E:	Complaint Form 2014a with Instructions – English*	
03-101-2E:1	Complaint Form 2014a with Instructions – Spanish*	
03-101-2F:	Unified Workforce Investment System Complaint Log	
03-101-2F:1	Unified Workforce Development System Complaint Log Instructions	
03-101-2G:	Unified Workforce Development System Complaint Process Handout /English	
03-101-2G:1	Unified Workforce Development System Complaint Process Handout /Spanish	
03-101-2H:	Appeals and Hearing Process	
03-101-2H:1	Sample Hearing Script-Oath-Opening Statement	
03-101-2H:2	Sample Local Notice of Hearing	
03-101-2H:3	Sample Local Office Hearing Determination	
03-101-2I:	Training Provider Appeal Form	
03-101-2J	Federal Contractor Statutes and Complaint Contact Information	
03-101-2K	Training and Employment Guidance Letter 37-14	
03-101-2L	Definitions	
03-101-2M	Complaint System Poster (English/Spanish)	PI 100 DCS 10.100.2
03-101-2M:1	“Equal Opportunity is the Law” Poster - English	PI 100 DCS 10.100.2
03-101-2M:2	“Equal Opportunity is the Law” Poster - Spanish	PI 100 DCS 10.100.2
03-101-2N	Key to Changes Regarding Attachments	

- * Complaint Information Form DL 1-2014a USDOL Directorate of Civil Rights (Federal) which includes the Notice About Investigatory Uses of Personal Information (Federal) (English & Spanish versions)

ATTACHMENT 1 A

UNIFIED COMPLAINT SYSTEM REQUIRED ELEMENTS

Each local area, State, outlying area, and direct recipient of funds under WIOA and Wagner Peyser, must establish and maintain a procedure for participants and other interested parties to file grievances and complaints alleging violations of the WIOA requirements pursuant to these guidelines [20 CFR § 683.600, 20 CFR § 658.400 & 29 CFR Part 38]:

1. The Department of Career Services (DCS) Administrator *must have overall responsibility* for the operation of the Complaint System. At the *Career Center level* the manager *must be responsible* for the operation of the Complaint System (including designation of a Complaint and EEO Officer).
2. *DCS must ensure centralized control procedures are established* for the processing of complaints. The manager of the Career Center office and the DCS Administrator *must ensure* a central complaint log is maintained, listing all complaints taken by the Career Center office or the SWA (DCS), and specifying for each complaint:
 - a. The name of the complainant;
 - b. The name of the respondent (employer or State agency);
 - c. The date the complaint is filed;
 - d. Whether the complaint is by or on behalf of a migrant and seasonal farmworker (MSFW);
 - e. Whether the complaint concerns an employment-related law or the ES regulations; and
 - f. The action taken and whether the complaint has been resolved.

Please refer to Attachment: 03-101-1H: Unified Workforce Investment System Complaint Log

3. **Written Policy and Procedures** – Each Local Board shall establish and maintain for its workforce area a unified process for the resolution of formal, written complaints brought forward by customers or other interested parties in relation to WIOA Title I and Wagner-Peyser (WIOA Title III) Job Service activities; or with regard to alleged violation of an individual's civil rights or acts of discrimination in a manner consistent with the parameters outlined in this policy.

Furthermore, if an area is not establishing separate procedures you must include a statement specifically citing the local area's adoption of this Unified Workforce Development System Complaint and Appeals Process must be included in the Local Board and One-Stop Career Center Standard Operating Procedures (SOP) manual.

4. **Designation of Local Complaint Officer/Equal Opportunity Officer and Alternates** – At a minimum, each Local Workforce Development Board must designate one Complaint Officer (CO) and one Equal Opportunity Officer (EOO) and a back-up for each. Each Comprehensive and Affiliate Career Center must have on-site, trained staff ready to handle the initial complaint process. The CO will be responsible for the handling of complaints pursuant to this issuance. The same individual may be designated as both the CO and the EEO. The name, business address and telephone number of the designated CO and EEO shall be publicized and included in all customer information describing how to file a complaint. The number of local COs and

ATTACHMENT 1 A

EOOs (and back-ups) designated by the Local Board must be guided by the board's need to assure that the process of complaint resolution must begin immediately upon receipt of the complaint without delay and must be conducted within the timeframes required by the nature of the complaint.

5. **Local Customer Notification Process** - Local Boards must assure that *all* Career Center customers are notified of their EO/Complaint rights. Staff must ensure the complainant submits the complaint via the Complaint Form (ETA 8429), a signed letter or e-mail (E-mails are deemed properly filed complaints). If the complainant needs assistance in describing his/her complaint in writing or completing the form assistance will be provided by the CO or other appropriate staff. A written description of the local complaint process (including procedural instruction) must be included in the package of Career Center Seminar materials. While the Career Center Seminar incorporates specific references to the complaint process, providing an advantageous opportunity to satisfy the customer notification requirement, Local Boards must also assure that other appropriate local mechanisms are in place to ensure maximum notification and that individual notification is duly recorded in the MA One-Stop Employment System (MOSES) database as part of the customer record. Local Boards must also ensure that the local notification process assures that complaint procedures are initiated in a timely manner when a customer expresses a desire to file a complaint or requests a copy of the procedures.
6. Require that every partner/sub grantee to which it awards Title I funds be provided information regarding the complaint system.
7. **Public Notice** - All direct recipients of WIOA/Wagner-Peyser (WIOA Title III) funds including Local Boards, One-Stop Career Centers, WIOA Title I Administrators, WIOA Fiscal Agents and WIOA service providers are required to prominently display in public view the official U.S. DOL approved Complaint System poster with local contact information (Attachment M).

All direct recipients of WIOA/Wagner-Peyser funds must also prominently display the "Equal Opportunity is the Law" Poster in English and Spanish (Attachments 1M1 and M2).

- a. When a complainant is an *English Language Learner (ELL / LEP)*, all written correspondence with the complainant *must include a translation into the complainant's native language.*
8. DCS and Career Centers *must ensure* information pertaining to the use of the Complaint System is publicized, which *must include*, but is not limited to, *the prominent display of an Employment and Training Administration (ETA)-approved Complaint System poster in each Career Center.*

See Policy Issuance 100 DCS 10.100.1 - Required Posters for Display in One-Stop Career Centers

9. Each Career Center *must ensure* there is appropriate staff available during regular office hours to take complaints.
10. **Acknowledgement** – Once you receive or accept for processing a formal (signed) complaint, you must acknowledge receipt of the complaint. When mailing letters to complainants, always

ATTACHMENT 1 A

send them "return receipt requested". Acknowledgments may be sent via email, if an email address has been provided by the complainant as this will be deemed an electronic signature.

11. Complaints may be accepted at any Career Center, Career Center partner, by the Department of Career Services (DCS), or elsewhere by an outreach worker.
12. All complaints filed through the local Career Center office must be handled by a trained Complaint Officer.
13. Appeals – Every complainant must be provided the opportunity to appeal any local adverse decision to the State.
14. DCS *must ensure* that any action taken by the Complaint Officer (CO), is fully documented containing:
 - a. all relevant information,
 - b. a notation of the type of each complaint
 - c. a copy of the original complaint form
 - d. a copy of any Career Center/partner-related reports
 - e. any relevant correspondence
 - f. a list of actions taken
 - g. a record of pertinent telephone calls and
 - h. all correspondence relating to the issue.
15. A *complainant may designate* an individual to act as his/her representative throughout the filing and processing of a complaint.

FOLLOW-UP ON UNRESOLVED COMPLAINTS

- A. **Non MSFW:** When a complaint is elevated or referred to DCS, the local Complaint Officer, must inform the complainant of the status of the complaint when an inquiry is made.
- B. **MSFW-Related:** When a complaint is elevated or referred to DCS, the local Complaint Officer, *must follow-up* monthly regarding MSFW complaints, and *must inform* the complainant of the status of the complaint. *No follow-up with the complainant is required for non-MSFW complaints.*

COMPLAINT LOGS

Each Local Board must establish procedures for its area for the use and maintenance of the Unified Workforce System Complaint Log (Attachment F) consistent with guidance provided, herein.

1. Within *1 month* after the end of the calendar quarter, the Workforce Development Board must transmit an electronic copy of the *quarterly* Complaint System log for each Career Center site, including, any affiliated sites to DCSUnifiedComplaint@MassMail.State.MA.US.

ATTACHMENT 1 A

- ✓ The Complaint Log must clearly identify each individual complaint.
- ✓ Each complaint must have a unique identification number. Copies of those Complaint Log pages that clearly indicate all newly filed and all resolved complaints for the calendar quarter must be promptly submitted (through e-mail) to the State Monitor Advocate following the end of each quarter.
- ✓ The Complaint Log is available in, and is to be completed and maintained in an Excel format.
- ✓ Local area Complaint Logs will be maintained on an annual basis consistent with the *state fiscal year* (July1 – June 30). Each annual complaint log will be kept for a period of 3 years following the end of the fiscal year for which the log was kept.
- ✓ The State Complaint Officer will compile and maintain a statewide Complaint Log from the submitted local Complaint Logs.

Instructions for completing the Complaint Log are included in Attachment F1.

CONFIDENTIALITY

The identity of the complainant(s) and any persons who furnish information relating to, or assisting in, an investigation of a complaint must be kept confidential to the maximum extent possible, consistent with applicable law and a fair determination of the complaint.

RETALIATION

DCS, WDB, OSCCs and sub-recipients must ensure that no person, organization or agency may discharge or in any manner retaliate against any person or WIOA entity because that person/entity has filed a complaint, instituted any proceeding related to the WIOA Title I and Wagner-Peyser Regulations, testified or is about to testify in a proceeding or investigation, or has provided information or otherwise assisted in an investigation.

VIOLATIONS OF LABOR STANDARDS (Section 181(b)(5))

EMPLOYMENT CONDITIONS.—Individuals in on-the-job training or individuals employed in programs and activities under this title shall be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.

An individual alleging a labor standards violation (terms and conditions of employment) may submit the complaint or grievance through the local complaint/grievance system or through a binding arbitration procedure, if a collective bargaining agreement covering the parties so provides.

Binding Arbitration: As an alternative to the Complaint/Grievance resolution process, a person alleging a violation of Section 181(b)(5) may submit the grievance to a binding arbitration procedure, if a collective bargaining agreement exist. However, binding arbitration decisions can't be appealed to the Secretary, and the remedies available to the grievant are limited to those set forth in WIOA.

RECORDKEEPING REQUIREMENTS AND FILE SYSTEM

- A. The Department of Career Services (DCS), the Workforce Development Boards (WDBs), One-Stop Career Centers (OSCCs) and sub-recipients must:

ATTACHMENT 1 A

1. Maintain separate hard copy/electronic folder for all complaints/grievances and each apparent violation received.
 2. Include in each folder(hard copy/electronic) the following:
 - ✓ Original Complaint Referral Form, ETA 8429, signed letter or e-mail;
 - ✓ Original notes taken at the time the complaint was taken/received;
 - ✓ Any correspondence received or sent to/from complainant or interested party;
 - ✓ Subsequent telephone conversations and follow-up notes on miscellaneous items such as news articles, check stubs, work assignment sheets, eligibility documentation, copies of agreements, MOUs, contracts, etc.;
 - ✓ Telephone call logs/notes regarding a complaint. Logs/notes must include the name of the person contacted, the telephone number, the date and the details of the call.
- B. Identify each hard/electronic file by the:
1. Complainant's name;
 2. The Complaint Number assigned (last two digits of Program Year + quarter number + consecutive 3 digit ID number), beginning on July 1st (i.e.: 16 – 01 - 001 PY, first quarter, first complaint). Quarter numbers will change but sequential numbers continue until the end of the Program Year.
 - a) The quarter numbers are as follows:
 - ✓ July - September (1st Quarter)
 - ✓ October - December (2nd Quarter)
 - ✓ January - March (3rd Quarter)
 - ✓ April - June (4th Quarter)
- C. File the folders numerically by Program Year; July 1 - June 30.
- D. Ensure that hard copy files are kept secure and electronic files password protected, since they are confidential
- E. Complaint files *must only* contain information related to the issues under consideration.
- F. Recordkeeping Requirements:
1. Complaints, complaint logs, apparent violations, and all documentation related to the informal resolution of any complaint or apparent violation (including hearing/appeal records) must be preserved for a minimum of three (3) years from date of last action and then destroy.

IMPORTANT: All records of complaints/apparent violations not resolved by DCS, WDB, OSCCs or appropriate enforcement agency *must* be preserved until resolution.

ATTACHMENT 1 A

2. Electronic Records:

1. All electronic records related to complaints/apparent violations/hearings must satisfy DCS requirements, WDBs/OSCCs must ensure that their electronic recordkeeping system:
 - a. Have reasonable controls to ensure the integrity, accuracy, authenticity, and reliability of the records kept in electronic format;
 - b. Is capable of retaining, preserving, retrieving, and reproducing the electronic records;
 - c. Can readily convert paper originals stored in electronic format back into legible and readable paper copies; and
 - d. Have adequate records management practices in place.

3. Best Practices

1. Properly labeling electronically maintained records;
2. Providing secure and encrypted storage of electronic data;
3. Creating back-up electronic file copies to be kept onsite or offsite;
4. Regular evaluations of the system to ensure it works properly and that data is maintained up to date;
5. Retaining paper copies of records that cannot be accurately or completely transferred to the electronic recordkeeping system.

ATTACHMENT A1

COMMON STEPS TO FOLLOW WHEN HANDLING GREIVANCES OR COMPLAINTS

Whenever an individual indicates an interest in filing a complaint under this subpart with a Career Center/Career Center sub recipient, DCS staff or an outreach worker, the staff receiving the complaint *must* offer to explain the operation of the Unified Complaint System and *must* offer to take the complaint in writing.

1. During the initial discussion with the complainant, the staff taking the complaint *must*:
 - a. Explain to the complainant how the Complaint System works;
 - I. Attempt informal resolution, if customer agrees
 - b. Make every effort to obtain all the information perceived to be necessary to investigate the complaint;
 - c. Request that the complainant provide the physical addresses, email, and telephone numbers through which he/she might be contacted during the investigation of the complaint; and
 - d. Request that the complainant contact the Complaint Officer (CO) before leaving the area (if complainant is a migrant worker) and *must* explain the need to maintain contact with the CO during the complaint resolution process.
2. The Complaint Officer (CO) *must ensure* the complainant (or his/her representative) submits a complaint in writing with a date and signature ((this may include email; electronic signatures are acceptable).
3. Any complaint in a reasonable form (*letter or email*) which is *signed by the complainant*, or his/her representative, and includes sufficient information to initiate an investigation *must be treated* as if it were a properly completed Complaint/Referral Form filed in person.
 - a. *A letter* (via hard copy or email) confirming the complaint was received *must be sent* to the complainant and the document *must be sent* to the appropriate CO for processing
 - b. If, after an initial review, if the complainant has not provided sufficient information to investigate the matter expeditiously, the CO *must* request additional information from the complainant
4. If the complaint is alleging discrimination then it must be submitted utilizing the Complaint/Referral Form/CIF. See attachments 03-101-1E and 03-101-E1 respectively. See Item 2(B)(i) below for exceptions.
 - a. The *Career Center/sub recipient* staff *must* offer to assist the complainant in filling out the form and submitting all necessary information, and *must* do so if the complainant desires such assistance. If the complainant also represents several other complainants, all such complainants *must be named*.
 - b. The complainant, or his/her representative, *must sign* the completed form in writing or electronically.

ATTACHMENT A1

- c. A copy of the completed complaint submission *must be* given to the complainant(s), and the complaint form *must be* given to the appropriate CO for review and resolution.

INFORMAL RESOLUTION PROCESS

At each level, the Informal Resolution process must be used to attempt to resolve OSCC related complaints, grievances or service related allegations. Generally, the Complaint or Equal Opportunity Officer (C/EOO) or his / her back-up will arrange for or facilitate the conciliation meeting(s) between the parties. This process must not exceed 10 days and the complainant may request that the informal resolution process be terminated at any time, in which case the Formal Resolution protocol will be followed. The C/EOO may, at its discretion, also initiate the Formal Resolution process at any time. Once an Informal Resolution process is complete, both parties will be notified simultaneously of the resolution.

ATTACHMENT A2

COMPLAINTS COVERED BY THIS POLICY AND PROCEDURES

Complaints regarding:

A. Employment-related law:

When a complaint is filed regarding an employment-related law with at the Career Center or at the Department of Career Services (DCS) the office must determine if the complainant is a Migrant Seasonal Farmworker (MSFW).

1. If the complainant is a non-MSFW, the office must immediately refer the complainant to the appropriate enforcement agency, another public agency for assistance. Upon completing the referral the local or DCS representative is not required to follow-up with the complainant.
2. If the complainant is a MSFW, the Career Center office or the DCS Complaint Officer (CO) must:
 - a. Take from the MSFW or his/her representative, in writing (hard copy or electronic), the complaint(s) describing the alleged violation(s) of the employment-related law(s); and
 - b. Attempt to resolve the issue informally at the local level.

i. Exceptions:

1. In cases where the complaint was submitted to DCS and the State Monitor Advocate (SMA) determines that he/she *must take immediate* action and
 2. In cases where *informal resolution at the local level would be detrimental* to the complainant(s). In such cases where informal resolution at the state or local level would be detrimental to the complainant(s), the CO or SMA (depending on where the complaint was filed) *must* immediately refer the complaint to the appropriate enforcement agency.
- c. If the issue is *not resolved within 5 business days*, the CO *must* refer the complaint to the appropriate enforcement agency or another public agency for further assistance.
 - d. If the Career Center office or the DCS CO determines that the complaint *must* be referred to another State or Federal agency, he/she must refer the complaint to the *State Monitor Advocate (SMA)* who *must* immediately refer the complaint to the appropriate enforcement agency for prompt action.
 - e. If the complaint is elevated to the SMA, the CO must provide the SMA's contact information to the complainant.
 - f. The SMA must notify the complainant of the enforcement agency to which the complaint was referred.

ATTACHMENT A2

B. Title III - Wagner-Peyser (W-P):

(1) When an W-P related complaint is filed with a Career Center or the DCS office the following procedures apply:

- a. When a W-P related complaint is filed against an employer, the proper office to handle the complaint is the Career Center office serving the area in which the employer is located.
- b. When a complaint is against an employer in another State or against another State Workforce Agency (SWA):
 - i. The local office receiving the complaint must send, after ensuring that the Complaint/Referral Form is completed, a copy of the Complaint/Referral Form and copies of any relevant documents to DCS CO for processing.
 - ii. Copies of the referral letter must be sent to the complainant, and
 - iii. Copies of the complaint and referral letter must be sent to the ETA Regional Office(s) with jurisdiction over the transferring and receiving State agencies.
 - iv. All such copies must be sent via hard copy or electronic mail.
- c. If the complaint is against more than one SWA, the complaint must so clearly state and must be elevated immediately to the DCS SMA/CO for processing.
- d. When a W-P related complaint is filed against a Career Center, the proper office to handle the complaint is the Career Center office serving the area in which the alleged violation occurred.
- e. When a W-P related complaint is filed against more than one Career Center and is in regard to an alleged agency-wide violation the DCS SMA/CO must process the complaint.
- f. When a complaint is filed alleging a violation that occurred in the same State but through a different Career Center office, the Career Center office where the complaint is filed must ensure that the Complaint/Referral Form is completed and send the form to the appropriate local Career Center office for processing. A copy of the referral letter must be sent to the complainant via hard copy or e-mail.
- g. If a complaint regarding an alleged violation of the W-P regulations is filed at the Career Center office by either a non-MSFW or MSFW, or their representative(s) (or if all necessary information has been submitted to the office), the appropriate Career Center office CO must investigate and attempt to resolve the complaint immediately upon receipt.
- h. When a non-MSFW or his/her representative files a complaint regarding the W-P regulations with DCS, or when a non-MSFW complaint is referred from the Career Center office the following procedures apply:

ATTACHMENT A2

- i. If the complaint is not transferred to an enforcement agency, the CO must investigate and attempt to resolve the complaint immediately upon receipt.
 - ii. If resolution at DCS' level has not been accomplished within 30 working days after the complaint was received by DCS (or after all necessary information has been submitted to DCS), whether the complaint was received directly or from a Career Center office, DCS must make a written determination regarding the complaint and must send electronic copies to the complainant and the respondent. The determination must follow the procedures set forth in determination section below.
- i. When a MSFW or his/her representative files a complaint regarding W-P regulations directly with DCS, or when a MSFW complaint is elevated from the Career Center office, the SMA must investigate and attempt to resolve the complaint immediately upon receipt and may, if necessary, conduct a further investigation.
 - i. If resolution at the Department of Career Services (DCS) level has not been accomplished within 20 business days after the complaint was received by DCS (or after all necessary information has been submitted to DCS), the SMA must make a written determination regarding the complaint and must send electronic copies to the complainant and the respondent.

C. Apparent Violations

If DCS, a Career Center office employee, or outreach worker, observes, has reason to believe, or is in receipt of information regarding a suspected violation of employment-related laws or W-P regulations by an employer, except as provided under the field checks or complaints section of the regulations, the employee must document the suspected violation and refer this information to the Career Center Manager.

- If the employer has filed a job order with the Career Center office within the past 12 months, the Career Center office must attempt informal resolution.
- If the employer has not filed a job order with the Career Center office during the past 12 months, the suspected violation of an employment-related law must be referred to the appropriate enforcement agency in writing.

NOTE: This "Apparent Violation" section applies only to agricultural workers. The SMA must be copied on any reported or documented apparent violations.

D. WIOA (Training and Service Complaints) - Local / State Level - 20 CFR 683.600 (a) & (b)

1. Complaints must be submitted in writing and filed at the local level within one year of the date of the incident; unless discrimination is alleged, in which case the complaint must be filed within 180 days. If needed or requested, the Local Area CO/EOO must assist complainant in writing the complaint (including LEP customers).
2. Upon receipt of a complaint the designated Local Area CO/EOO reviews and determines what type of complaint it is and the path to follow. If a complaint is initially filed with the

ATTACHMENT A2

Department of Career Services (DCS) then it must be remanded to the local level. DCS will directly assume responsibility and receive and process complaints relating to workforce development programs when any of the following conditions apply:

- a. Complaint involves a conflict/dispute between the DCS and a local level entity (LWDA recipient or sub recipient);
- b. Complaint involves more than one local level entity; and/or
- c. Local level time limits and/or procedures have not been adhered to.

3. All LWDB complaints must be recorded on the local Complaint Log and must include:

- a. Name, address, and phone number of the complainant;
- b. Grounds or basis for the complaint;
- c. Date the complaint was filed;
- d. Person(s) and/or organization(s) against whom the complaint is filed; and any other pertinent information.

CO/EOOs are designated to assure the promptness and coordination of the procedures identified in this policy. All Workforce Development Board (WDBs) areas *must* ensure that American Job Center (AJCs) designate an individual to process complaint and monitor procedures at each comprehensive, affiliate and/or specialized career center.

CO/EOOs must be available to assist complainants and to provide information concerning the rights and responsibilities which are afforded by federal or state laws and regulations.

CO/EOOs and their back-ups must:

Act independently and without fear of intimidation or retaliation and have direct access to the decision maker (in the course of complaint investigation, resolution and/or referral, the CO/EOO may find it necessary to correct deficiencies which have adversely affected the complainant or other beneficiaries).

Local Level Processing

INFORMAL RESOLUTION

Program related complaints (or grievances) and procedures are addressed under WIOA (§181(c)) and federal regulations at 20 CFR 683.600. These complaints *are not discrimination-based* and are normally filed and processed at the local level.

CO/EOOs (and back-ups) must perform the following within 15 days of receipt of a program related complaint:

1. Log the complaint on the Quarterly Complaint Log as appropriate;
2. Begin to prepare an administrative case file and record of the complaint;
3. Determine the issues identified in the complaint and corresponding jurisdiction for each;
4. Notify appropriate office staff that a complaint has been filed;
5. Investigate to ascertain pertinent facts for those issues for which jurisdiction is determined;

ATTACHMENT A2

6. For issues that the agency lacks jurisdiction; the CO/EEO must refer the issues out to the appropriate entities(s);
7. Issue a letter to the complainant acknowledging receipt and outlining the issues identified, jurisdiction or lack thereof and the entities to which referrals were made;
8. Determine if proper procedures have been followed (for example: if an individual is complaining about being unfairly terminated or being denied benefits or services, are there adequate records in MOSES/case file of action(s) taken and were those actions consistent with agency policy?);
9. Attempt informal resolution by scheduling and holding an informal resolution meeting(s). The purpose of the meeting is to bring the parties together to discuss the issues and to examine evidence and make recommendations which may lead to a resolution (informal resolution)**; any recommendations must be based on the fact-finding investigation and information obtained during the informal meeting(s); and
10. If informal resolution cannot be achieved at the meeting(s), then notice to the complainant must be given for the opportunity to request a formal hearing.

*** The objectives of the Informal Resolution process or any discovery meeting are:*

- 1 Where possible, simplification of the issues;*
- 2 To help make any necessary amendment(s) to the complaint;*
- 3 Exchange of reports, regulations and any other pertinent documents and to exchange the names of any expert witnesses expected to be called for a formal hearing;*
- 4 Examine the possibility of obtaining statements of fact, documents and other exhibits which will avoid unnecessary testimony;*
- 5 Specify the kinds of documents and/or relief required to resolve the complaint; and*
- 6 Afford the opportunity for discovery by opposing parties (representatives for the parties must have the authority to resolve issues through negotiations and they must be prepared to spend sufficient time and effort in negotiations which may require more than one meeting).*

If resolution is achieved, the CO/EEO will prepare a brief "Resolution Notice", identifying the issue(s) and the action(s) and/or remedies to be taken to assure settlement of the matter. This notice will be reviewed by the parties to assure they are in agreement.

If the resolution listed on the agreement is acceptable to both the complainant and respondent, they will be asked to sign and date the document as being accepted. The CO/EEO will also sign and date the statement, provide a copy to each party, and place the original in the case file.

If a resolution requires some agreement or action by the Respondent or individuals other than those identified in the Resolution Notice, then those other individuals must be added to the document, and must also sign, date it and receive a copy of the fully executed "Resolution Notice".

If agreement is signed and dated, resolution is achieved and the case is closed. Complaint Log must be updated to reflect resolution.

ATTACHMENT A2

LOCAL FORMAL RESOLUTION

If informal resolution process does not result in a resolution, the parties must immediately be provided with a copy of the "Hearing Notice and Hearing Rights" (Attachment 03-101- 1 H2) after the conclusion of the informal resolution process. If a hearing is requested, a formal hearing date should be scheduled at that time. If the option for a hearing is refused then the decision must be documented accordingly.

IMPORTANT: If the complainant *does not appear* for the informal resolution meeting, a formal hearing date will be set and the "Hearing Notice and Hearing Rights" will be issued by certified mail to the complainant.

NOTE: The hearing date must be scheduled (not necessarily held) within *20 days* of the filing of the complaint.

Where efforts to informally resolve complaints have failed, local procedures must provide for a hearing and decision within sixty (*60*) *days* of the date of filing of the complaint. Such hearing shall be conducted by the designated hearing officer and include written notice of the date, time and place of the hearing; an opportunity to present both written evidence and testimony; a written decision based on all relevant evidence/testimony; and notice of appeal rights. See Attachments 03-101-1 H1 through 03-101-1 H3 for sample documents.

IMPORTANT: Since the hearing must be held and a decision rendered within 60 days of receipt of the complaint, there may be instances when the complaint is resolved or withdrawn prior to issuance of the decision. Resolution by the parties and withdrawals by complainant *must* be documented in writing to the complainant and on the Complaint Log.

Upon conclusion of the hearing, the local CO/EOO will prepare a "Determination Letter", with determinations for each of the issue(s) accepted for review (those that had previously been identified with jurisdiction). The determination letter must include the Right to Appeal to the State Agency (Department of Career Services).

If the decision is not contested (within *20 days* from the determination letter) then the case is closed.

State Level Review of Program Related Complaint

If the local area decision is not acceptable to the complainant and/or respondent, either party has the right to appeal, within 20 days, the determination to the State Agency, Department of Career Services (DCS).

Also, if the LWDB/OSCC hearing decision is not issued timely (by the end of the 60 days from when the complaint was received), then the complainant may request a review by the state within ten (10) days of the date on which a timely decision should have been issued by the local area.

ATTACHMENT A2

An appeal or request for review of a local level decision is to be forwarded to the State Complaint Officer at the address shown below:

Department of Career Services
19 Staniford St, 1st Fl.
Boston, MA 02114
Attn. Jose V. Ocasio
Email: DCSUnifiedComplaint@MassMail.State.MA.US

The DCS CO will proceed as follows:

1. Log the complaint on the DCS Quarterly Complaint Log as appropriate;
2. Begin to prepare an administrative case file and record of the complaint;
3. Notify the complainant and appropriate staff that an appeal has been filed;
4. Upon request and to the extent possible, the parties *must* provide all pertinent files, records and other documents to the state CO and/or hearing official;
5. Review pertinent facts for those issues appealed;
6. If any issues in the course of the review were identified incorrectly for jurisdiction; the State CO must refer the issues out to the appropriate entities(s). This may include remand to a local area;
7. Attempt informal resolution by scheduling and holding informal resolution meeting(s);
8. If informal resolution cannot be achieved then a formal hearing must be scheduled.

The Department of Career Services must complete informal resolution or conduct a hearing and issue their determination within sixty (60) days of the date of receipt of the request for review or formal appeal made by the complainant.

Upon receiving a complaint for which the parties have not exhausted local level administrative remedies, the DCS Complaint Officer must, pursuant to 20 CFR 683.600(c)(2) and (d)(3), remand the complaint to the local level for processing and resolution. (As needed any technical assistance will be provided by the DCS State Complaint Officer)

DCS reviews local decision and has the option of affirming, reversing or remanding the local hearing decision; or upon further review conducting a state hearing and / or issuing a decision. Even if a state hearing is scheduled or held, a decision must still be issued within 60 days of the complaint being filed with DCS.

If either party is dissatisfied with the state level hearing officer's decision, he/she will have the right to appeal to the U.S. DOL Regional Office, subject to whatever restrictions DOL might have on accepting and reviewing a particular appeal.

If the decision is not appealed to the DOL level (within 60 days*) then the case is closed. (*per 20 CFR 683.610)

If the complaint is resolved or withdrawn prior to issuance of a decision the case is closed with a signed and dated resolution notice to the complaint. A sample of the Resolution Notice is included as part of Attachment 03-101-1H3.

ATTACHMENT A2

E. DISCRIMINATION COMPLAINTS

1. *Complaints alleging a violation of rights under the Equal Employment Opportunity Commission (EEOC) regulations or enforced by the U.S. Department of Labor's Civil Rights Center (CRC)*

- i. All complaints received by the Career Center or the SWA alleging unlawful discrimination, as well as reprisal for protected activity, in violation of EEOC regulations, *must be logged and immediately referred* to either local Equal Opportunity (EO) officer, the State EO officer, or the EEOC. The CO must notify the complainant of the referral in writing.
- ii. Any complaints received either at the local and State level or at the ETA regional office, that allege violations of civil rights laws and regulations such as those under title VI of the Civil Rights Act or sec. 188 of WIOA, including for beneficiaries (as defined in 29 CFR 38.4) only, on the basis of citizenship status or participant status, as well as reprisal for protected activity, *must immediately be logged and directed or forwarded* to the AJC/State Equal Opportunity Officer or the Director, Civil Rights Center, U.S. Department of Labor, Room N4123, 200 Constitution Avenue NW, Washington, DC 20210, for processing.
- iii. Nothing in this subpart precludes a grievant or complainant from *pursuing a remedy authorized under another Federal, State, or local law.*

2. LOCAL EQUAL OPPORTUNITY COMPLAINTS PROCESS AND TIMEFRAMES

- An Equal Opportunity Complaint must be filed within **180 days** of the alleged act(s) of discrimination. The complaint must be filed at either the local level or with the United States Department of Labor (USDOL) Civil Rights Center (CRC) in Washington, D.C.
- If a customer alerts a career center of his/her intent to file a discrimination complaint, steps should be taken to connect the complainant with the designated local EO Officer (his or her name should appear on the Complaint / EO poster or flier). If the local Complaint / EO Officer (CO/EO) is not available immediately, the designated EO back-up shall be contacted.
- In all possible instances, the designated local EO should personally meet with the complainant(s) in an area of the agency's offices that ensures confidentiality. The purpose of this preliminary interview is to:
 - ✓ determine the complainant's name, address and means of contact;
 - ✓ determine the basis of the complaint;
 - ✓ develop a detailed description of the allegation(s);
 - ✓ determine the date of the most recent alleged event of discrimination; and
 - ✓ Identify the proper respondent.
- Career centers may choose to gather the complainant's information on USDOL-CRC Complaint Information Form (CIF) and Privacy Act Consent Forms (see Attachments 03-101-1E or E:1).

ATTACHMENT A2

- Once the information is gathered, the document must be signed and dated by the complainant. The signed/dated Consent Form should indicate whether the complainant allows the EO to disclose the complainant's identity, if necessary to investigate his or her complaint.
- The EO should ask the complainant whether he/she would like the complaint handled locally or referred to the USDOL-CRC in Washington, D.C. The complainant's decision should be indicated on the signed Consent form.
- The EO should stress to the complainant that a local resolution would likely be reached more quickly and that the complainant's right to file again with the USDOL would still be available should the resolution at the local office be unsatisfactory.
- If the complainant elects to have his/her complaint resolved at the local level, the EO must request that the customer allow one (1) day for preparation of a written letter to either acknowledge receipt of the complaint or to provide a notice of Lack of Jurisdiction. If this is not possible, the complainant should be asked to wait in the public reception area while the EO examines the complainant's statement and a response is prepared. Note: When mailing letters to complainants, always send them "return receipt requested." When providing similar written responses in person, secure a signed receipt.
- The EO must review the information provided and determine if he/she has jurisdiction (see above and Attachment 03-101-1B).
- Once determined, the EO must declare in writing that he/she either has jurisdiction over the complaint or does not have jurisdiction based on one or more of the following reasons:
 - ✓ The basis for the complaint is not covered by the prohibitions set forth in 29 CFR Part 38.
 - ✓ The complaint was not filed with the prescribed timeframes within 180 days of the date that the discriminatory act(s) allegedly occurred.
 - ✓ The complaint is against an agency, employer, organization, program, or individual within an entity that is not a recipient of WIOA Title I financial assistance as defined in 29 CFR Part 38.4.
- If it is determined that the EO does not have jurisdiction, he/she should provide the complainant with the address and phone number of the appropriate agency with jurisdiction.
- If it is determined that the career center does not have jurisdiction in the particular matter, a notice citing one or more of the above reasons shall immediately be provided in writing. The written notice must include the specific phrase "lack of jurisdiction" in describing why the career center is not the appropriate entity to resolve the complaint. If the notice is mailed to the complainant, send "return receipt requested". The notice should also inform the complainant that he/she has 30 days from the date of receipt to file a complaint to the CRC. The *original* signed complaint should be included with the notice. A *copy* of the complaint should be maintained on file with the career center.
- If the discrimination complaint is within the EO's jurisdiction, an acknowledgement letter must be prepared. The acknowledgement letter should contain the following:

ATTACHMENT A2

- ✓ Notice of complaint receipt.
- ✓ Assignment of a distinct complaint number (e.g. xxxx-01-01, first complaint, year).
- ✓ Restatement of the issues raised in the complaint.
- ✓ Notice of which issues have been accepted.
- ✓ Explanation, if necessary of issues that will not be investigated.
- ✓ A notice that the complainant has a right to representation by any individual he/she chooses during the complaint process with the specification that if an attorney is chosen to represent the complainant, all legal fees are the sole responsibility of the complainant.
- ✓ A notice that a preliminary period of fact-finding or investigation will occur and may take approximately 10 business days to complete. (Preliminary fact-finding describes the issues raised by the complainant and the respondent.)
- ✓ A choice of "Informal Resolution" (IR) as an appropriate option for informal resolution.

ADR includes "mediation" as a way of resolving the issues or differences between the parties to the complaint. The IR objective and process should be briefly explained in the letter. The choice to use IR rests with the complainant and such a choice to use IR should be communicated to the EO by the complainant as quickly as possible.

Upon receiving notice of the complainant's decision to pursue ADR, the EO must immediately notify the Commonwealth:

Director of Diversity and Equal Opportunity
Executive Office of Labor and Workforce
Development
19 Staniford Street, Fifth Floor
Boston, MA 02114

Office of the Director
Department of Career Services
and Charles F. Hurley Building 19
Staniford Street, First Floor
Boston, MA 02114

ADR should not be considered as an appropriate mechanism for resolution when the complaint:

- ✓ involves the potential for setting a policy precedent; and/or
 - ✓ impacts other members of a protected group.
 - ✓ is of a high profile nature;
 - ✓ involves legal issues.
- If the complainant is dissatisfied with the resolution of the complaint at the State or local level, the complainant may file a new complaint with CRC within 30 days of the date on which the Notice of Final Action was received. Please Note: The Appeal of a Local EO determination is not covered under this Policy and handled solely by the CRC.
 - If the State or Local Area fails to issue the Notice within 90 days of the date on which the complaint was filed, the complainant may file a new complaint with CRC within 30 days of the expiration of the 90-day period (in other words, within 120 days of the date on which the original complaint was filed).
 - The EO complaint process including fact-finding, IR, settlement agreement, and "Notice of Final Action" must be completed within 90 days of the date that the complaint was filed at the local level.

ATTACHMENT A2

- The respondent to the complaint must also be notified that a complaint alleging discrimination has been filed and is being processed. The respondent must be provided a summary or copy of the complaint and given written notice that any form of retaliation or intimidation is against the law. The respondent must also be notified if IR has been offered to the complainant as a means of informal resolution.
- Copies of all correspondence related to EO complaints must be sent to both:

Director of Diversity and Equal Opportunity
Executive Office of Labor and Workforce
Development
19 Staniford Street, Fifth Floor
Boston, MA 02114

Office of the Director
Department of Career Services
and Charles F. Hurley Building
19 Staniford Street, First Floor
Boston, MA 02114

ATTACHMENT A3

Complaints **NOT COVERED** under The Unified Complaint System Procedures

This policy does not cover complaints that may arise in the delivery and/or administration of services and activities provided by or enforced by another agency and/or organization. All such complaints should be immediately forwarded to the Department of Career Services for referral to the appropriate agency and/or organization.

Office of the Director
Department of Career Services
Charles F. Hurley Building
19 Staniford Street, First Floor
Boston, MA 02114

More specifically, complaints that do not fall within the jurisdiction of this policy include:

A. Complaints and Reports of Criminal Fraud and Abuse

1. Information and complaints involving criminal fraud, waste, abuse or other criminal activity must be reported immediately through the Department's Incident Reporting System to:

Department of Labor
Office of Inspector General
Office of Investigations, Room S5514
200 Constitution Avenue
NW. Washington, DC 20210

2. *or* to the corresponding Regional Inspector General for Investigations, with a copy simultaneously provided to the Employment and Training Administration.
 3. The Hotline number is 1-800-347-3756. The Web site is <http://www.oig.dol.gov/contact.htm>.
- B. *Complaints by Veterans*** alleging employer violations of the mandatory listing requirements under 38 U.S.C. 4212 are not covered by this subpart and must be referred to the appropriate administering agency which would follow the procedures set forth in the respective regulations.
- C. *Complaints Against Employers From Another State*** – These complaints will be handled by appropriate agency within that state.
- D. *Complaints Alleging Violations of Unemployment Insurance (UI) Laws and Regulations*** – Such complaints are under the purview of the Department of Unemployment Assistance (DUA).
- E. *Complaints Alleging Violations of Transitional Assistance for Needy Families (TANF) Regulations*** – Such complaints fall under the purview of Department of Transitional Assistance (DTA).

ATTACHMENT A3

F. *Complaints Alleging Federal Contractor Violations* - Federal contractors must adhere to a number of wage and labor standard requirements mandated under a variety of federal statutes. These complaints will be forwarded to appropriate agency with jurisdiction.

G. *Career Center Staff Personnel Complaints*

- a. ***Local non-state staff Personnel Complaints*** (other than discrimination complaints) must be handled through the appropriate employer of record Human Resource Office.
- b. ***Local non-state staff complaints alleging discrimination*** must be immediately elevated to the local Equal Opportunity Officer.
- c. ***Local State Staff Personnel Complaints*** (other than discrimination complaints) must be elevated to the State Human Resources Office.
- d. ***Local state staff complaints alleging discrimination*** must be immediately elevated to the State Director of Diversity and Equal Opportunity.

ATTACHMENT B

JURISDICTION AND TIMEFRAMES

NATURE OF COMPLAINT	DCS	OSCC
Wagner Peyser (Title III)		
• Employment-related Law		
o MSFW	YES	YES
o Non-MSFW	NO	NO
• EEOC or CRC Discrimination	YES	YES
• ES regulations (including 29 CFR 75) and (MSFW / Non-MSFW processing times)		
o against an employer	YES	YES
▪ H-2A Related Complaints	YES	YES
o against an employer in another State or another SWA:	YES	NO
o against more than one SWA	YES	NO
o against an AJC	YES	YES
o against more than one AJC (State-wide violations)	YES	NO
o alleging a violation that occurred in the same State but through a different AJC office	YES	NO
• Apparent Violations	YES	YES
WIOA (Title I)		
• Program Related	YES	YES
• Discrimination Related	YES	YES
• Criminal Fraud and Abuse	NO	NO
• Termination of Eligibility as Training Provider	YES	NO
• Non-Designation Of Initial or Subsequent Local Workforce Development Area	YES	NO
• Appeal of One-Stop Infrastructure Amount Designated by the State Under State Infrastructure Funding Mechanism	YES	NO
• Appeal of Local Workforce Board Competitive Selection of Local One-Stop Operator/Service Provider	YES	NO
• WIOA -Labor Standards Violations (Binding Arbitration) - Section 181(b)(5)	YES	YES
OTHER TYPES OF COMPLAINTS		
• Unemployment Insurance, Veterans, Job Corps, Department of Transitional Assistance, Trade Program (Eligibility), State Minimum Wage, Federal Minimum Wage, Federal Contractors.	NO	NO

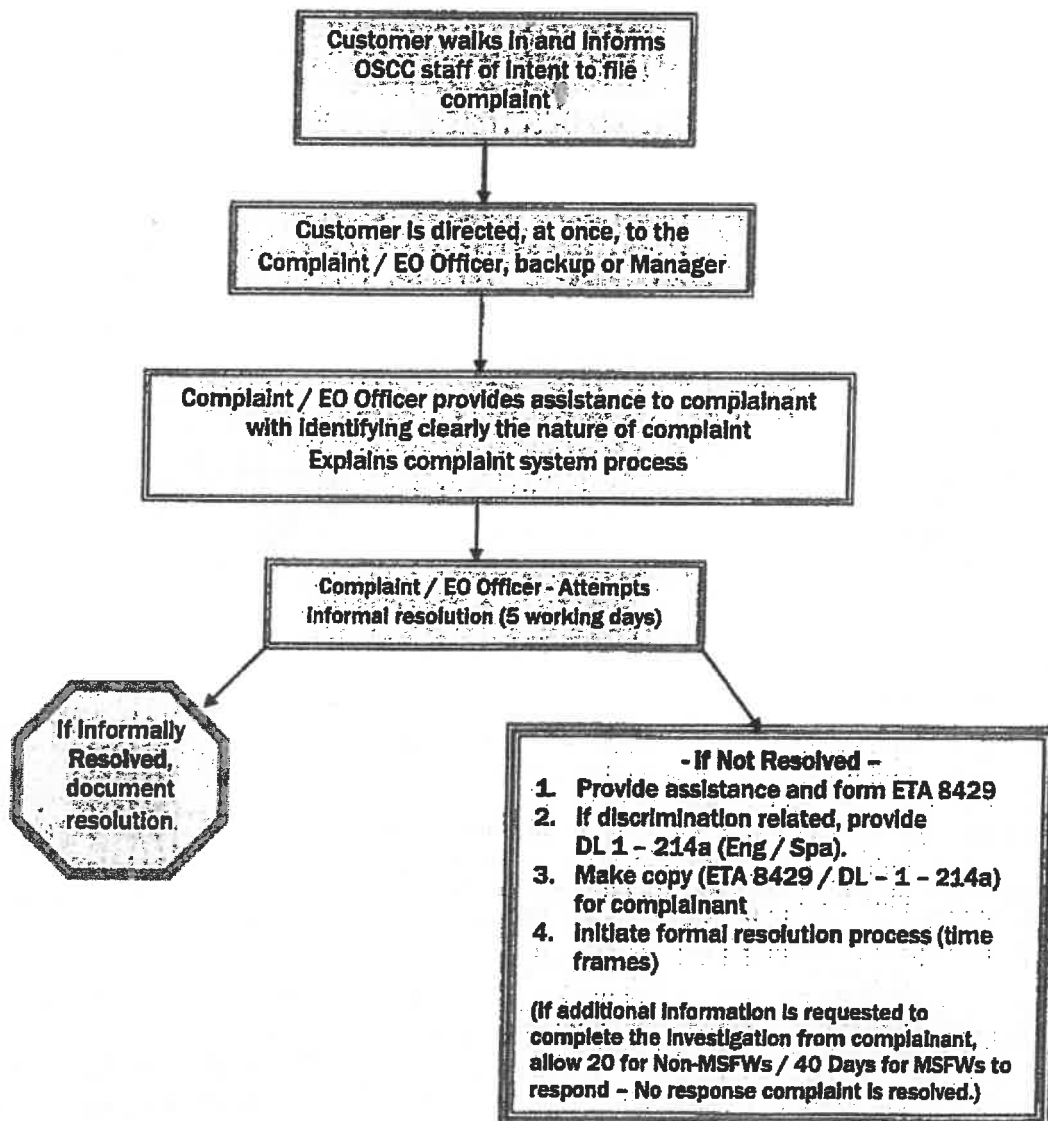
TIME FRAMES

Filing Complaints	WIOA (Title I)	Within 1 year
	Wagner-Peyser	Within 2 years
	Discrimination	Within 180 days
Informal Resolution	Applicable to ALL	Within 5 working days
Processing Timeframes	WIOA (Title I)	Within 60 days
	W-P (Title III)	Within 5 days MSFWs / Within 15 Days Non-MSFWs
	Discrimination	Within 90 days
Additional Information Request	WIOA (Title I)	Within original 60 days
	W-P (Title III)	Within 40 days MSFWs / Within 20 Days Non-MSFWs
	Discrimination	Within original 90 days
Reopening Complaint	W-P (Title III) <i>Only</i>	Within 1 year from failing to respond to info request.
Hearings / Appeals	WIOA (Title I)	Within 30 days after decision
	W-P (Title III)	Within 20 days after decision
	Discrimination	Within 30 days of no response or after receipt NOFA

Attachment C

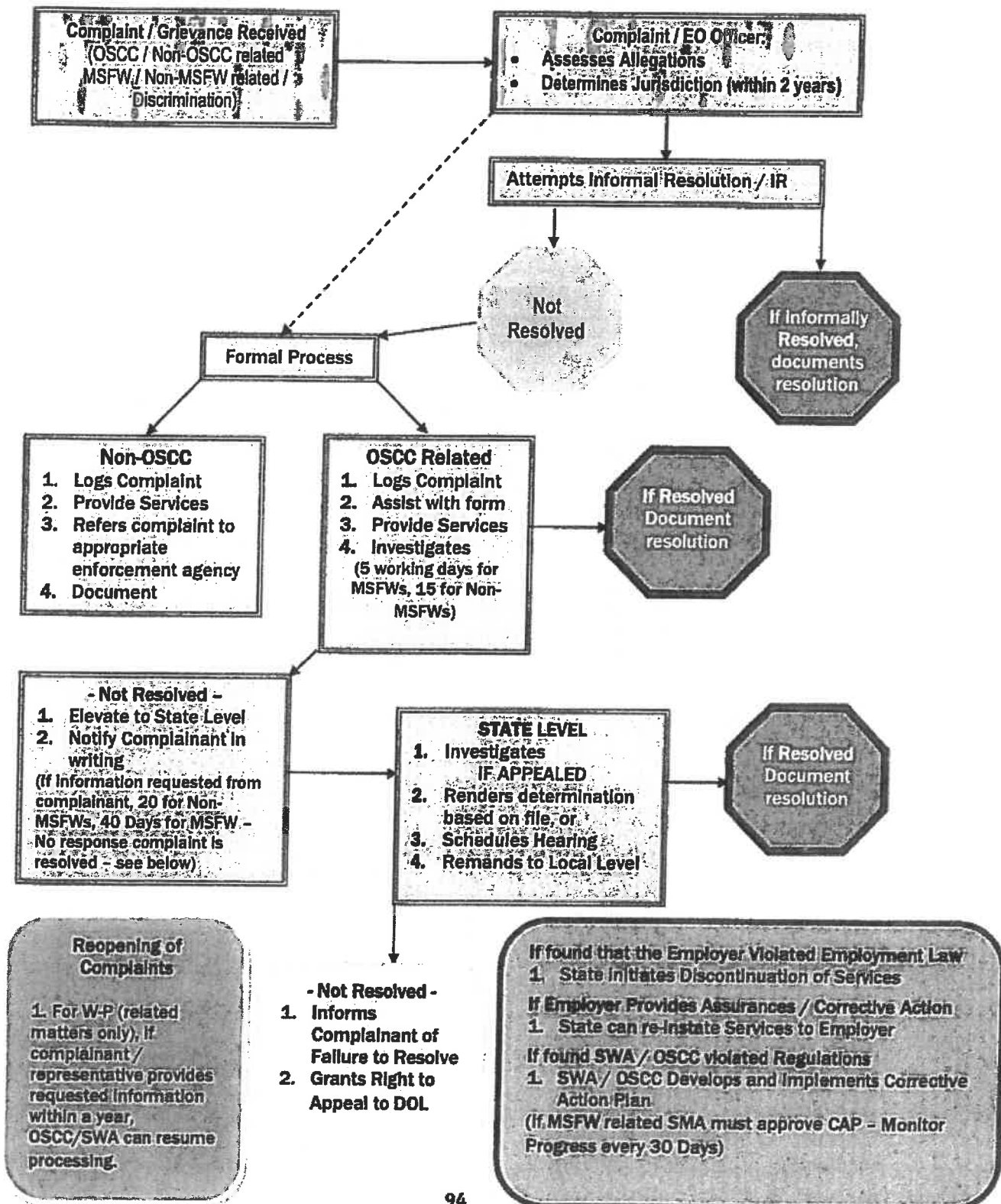
Informal Resolution Process Flowchart

Complainants are encouraged to seek informal resolution of their complaints / grievances or concerns. This informal procedure is intended to promote communication between the parties involved, either directly or through an intermediary, in order to facilitate a mutual understanding of what may be different points of view.



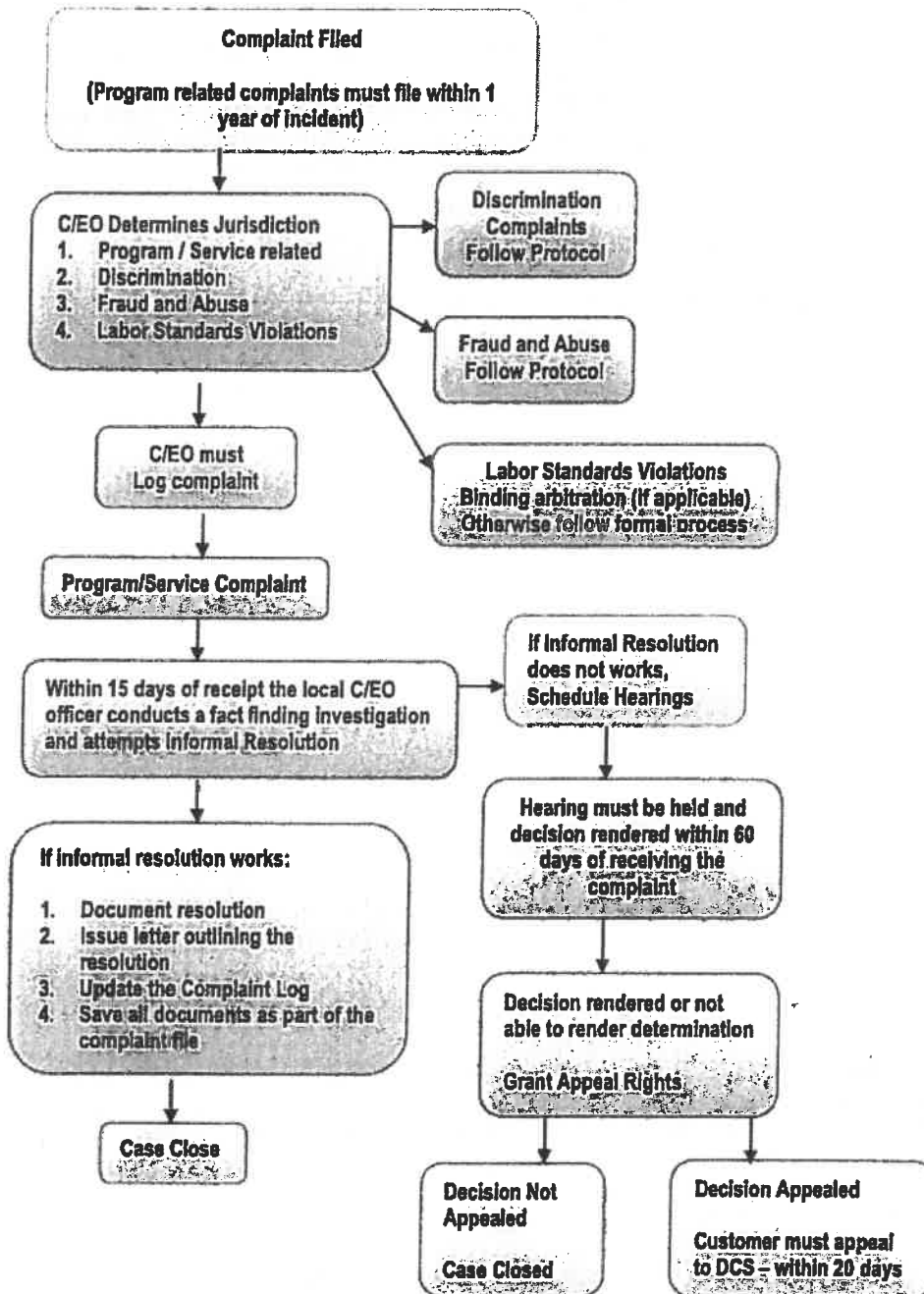
IMPORTANT: If the informal resolution process does not result in the resolution of the complaint to the satisfaction of the complainant, the complainant may utilize the formal complaint resolution process (including fact-finding and/or a local level hearing). For monitoring purposes, informal resolution of complaints must be recorded in the complaint log.

Attachment C1 Complaint Handling Process Flowchart



ATTACHMENT C2

WIOA Training and Services Related Complaints





U.S. Department of Labor
Employment and Training Administration

OMB Approval No. 1205-0039
Expiration Date: Dec. 31, 2018

For Official Use Only

Complaint/Apparent Violation Form¹

Complaint No.		Date Received	
Part I. Complainant's Information²		Respondent's Information³	
1. Name of Complainant (Last, First, Middle Initial)		4. Name of Person, Company, or Agency the Complaint is Made Against	
2a. Permanent Address (No., St., City, State, ZIP Code)		5. Name of Employer (if different from Part I #4 above) /One-Stop Office	
b. Temporary Address (if Appropriate)		6. Address of Employer/One-Stop Office	
3a. Permanent Telephone () -	b. Temporary Telephone () -	7. Telephone Number of Employer/One-Stop Office () -	
8. Description of Complaint or Apparent Violation (If additional space is needed, use separate sheet(s) of paper and attach to this form)			

Certification

I CERTIFY that the information furnished is true and accurately stated to the best of my knowledge. I AUTHORIZE the disclosure of this information to other enforcement agencies for the proper investigation of my complaint. I UNDERSTAND that my identity will be kept confidential to the maximum extent possible, consistent with applicable law and a fair determination of my complaint.

9. Signature of Complainant⁴

10. Date Signed
/ /

¹ For information regarding complaints that are covered through the Employment Service and Employment-Related Law Complaint System see 20 CFR 658 Subpart E.

² If the Complaint/Apparent Violation Form is used to submit an Apparent Violation, the name of the Complainant is not necessary and may remain anonymous. Parts 2a and 2b also do not need to be filled out if the form is used for an Apparent Violation.

³ For definition of "Respondent" see 20 CFR 651.

⁴ No signature is required at Part 9 if this form is submitted as an Apparent Violation.

Part II. For Official Use Only

<p>1. Migrant or Seasonal Farmworker? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <hr/> <p>2. Complaint or Apparent Violation? Complaint <input type="checkbox"/> Apparent Violation <input type="checkbox"/></p> <hr/> <p>3. Type of Complaint or Apparent Violation ("X" Appropriate Box(es)):</p> <p><input type="checkbox"/> Employment Service Related</p> <p><input type="checkbox"/> Job Order No. _____</p> <p><input type="checkbox"/> Against Local Employment Service Office</p> <p><input type="checkbox"/> Against Employer</p> <p><input type="checkbox"/> Alleged Violation of Employment Service Regulations</p> <p><input type="checkbox"/> Employment-Related Law</p>	<p>4. Issue(s) Involved in Complaint or Apparent Violation ("X" Appropriate Box(es)):</p> <p><input type="checkbox"/> Wage Related <input type="checkbox"/> Housing</p> <p><input type="checkbox"/> Child Labor <input type="checkbox"/> Pesticides</p> <p><input type="checkbox"/> Working Conditions <input type="checkbox"/> Health/Safety</p> <p><input type="checkbox"/> Migrant and Seasonal Agricultural Worker Protection Act (MSPA)</p> <p><input type="checkbox"/> Disability Discrimination</p> <p><input type="checkbox"/> Discrimination Other⁵ (Specify) _____</p>	<p>5. H-2A/Criteria Employer ("X" Appropriate Box(es)):</p> <p><input type="checkbox"/> U.S./Domestic Worker</p> <p><input type="checkbox"/> H-2A Worker</p> <p><input type="checkbox"/> Wages</p> <p><input type="checkbox"/> Transportation</p> <p><input type="checkbox"/> Meals</p> <p><input type="checkbox"/> Housing</p> <p><input type="checkbox"/> Other _____</p>
---	--	---

6a. Referrals To Other Agencies ("X" Appropriate Box(es)) <input type="checkbox"/> WHD. U.S. DOL. <input type="checkbox"/> OSHA U.S. D.O.L. <input type="checkbox"/> EEOC <input type="checkbox"/> Other _____	7. Address of Referral Agency (No., St., City, State, ZIP Code and Telephone No.) _____ _____ _____
b. Follow-Up <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Monthly <input type="checkbox"/> Quarterly	c. Next Follow-up Date _____ / _____ / _____ () _____ - _____

8. Explanation of Complaint/Apparent Violation (If additional space is needed, use separate sheet of paper)

9. **Actions Taken on Complaint/Apparent Violation** (If additional space is needed for multiple actions taken, use a separate paper):

Action Taken By: _____ On: _____
(First and Last Name) (Date)

Action Taken: _____

10. Complaint / Apparent Violation resolved? ☐ Yes ☐ No If "No", explain.

11. Provided other One-Stop Services? ☐ Yes ☐ No If "No", explain.

2a. Name and Title of Person Receiving Complaint	12b. Office Address (No., St., City, State, ZIP Code)	
2c. Phone No. () -	12d. Signature	12e. Date / /

Public Burden Statement

Persons are not required to respond to this collection of information unless it displays a currently valid OMB Control Number. Obligation to reply is required to obtain or retain benefits (44 USC 5301). Public reporting burden for this collection is estimated to average 8 minutes per response, including the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. Send comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing this burden, to the U.S. Department of Labor, Employment and Training Administration, Office of Workforce Investment, Room C-4510, 200 Constitution Avenue, NW, Washington, DC 20210.

⁵ For DISCRIMINATION COMPLAINTS ONLY. Persons wishing to file complaints of discrimination may file either with the State Workforce Agency, or with the Directorate of Civil Rights (DCR), U. S. Department of Labor, 200 Constitution Avenue, NW, Room N-4123, Washington, D.C. 20210

Completion of the Complaint Referral Record - ETA Form 8429

"For OSCC Use Only" section (at top of form)

The Career Center Manager, or their designee, is required to complete this section. This information should correspond to the information entered on the quarterly log.

Part I (Complainant's Information)

1. **Lines 1 thru 7** This section shall be filled out either by the complainant, his/her representative or by the staff person receiving the complaint.
2. **Line 8 (Description of Complaint)** Description of Complaint or Apparent Violation (If additional space is needed, use separate sheet(s) of paper and attach to this form, indicating the expected results. If the complainant is unable to fill out this section and assistance is given, the statement should be written in the first person. Additional sheets are to be identified with the name and signature of the complainant. To ensure that no further comments are added to the original statement, a diagonal line shall be drawn from the last word of the statement to the end of the page.
3. **Line 9 and 10 (Signature of Complainant and Date)** The form must be signed by at least one complainants (if more than one – list all names) for the complaint to be referred to a higher level. If the complainant refuses to do so, a statement by the Career Center official taking the complaint will be written to this effect. The complainant will be further advised, in writing by the Career Center Manager, that since he/she refuses to sign the complaint, no further action can be taken on the complaint. The complainant's signature must be on each additional sheet used for line 8 (Description of Complaint).

Part II (For OSCC Use Only)

1. The Career Center Manager, or their designee, is required to complete lines 6a through 12e, This information should correspond to the information entered on the quarterly log
2. Make four copies of completed and signed form:
 - Original and one copy shall be kept in the local Career Center complaint file.
 - One copy shall be given to the complainant.
 - One copy shall be sent to the State Complaint Resolution Administrator or other referred agency with copies of all other documents related to that claim.

Complaint Information Form

U.S. Department of Labor
Office of the Assistant Secretary for Administration and Management
Civil Rights Center



DL 1-2014A (Rev 7/2015)

OMB Control Number 1225-0077 Expiration Date: 2/28/2021

Please read the form carefully. Type or print your answers. Answer each question as completely as possible. If you cannot fit your whole answer in the space on this form, you may add more pages.

If a question or field has a star next to it, you must answer that question. You do not have to answer the other questions, but if you do, it will help us to process your complaint. If you do not know the answer to a question, put "not known" in the space for the answer. If the question does not apply to your case, put "n/a."

*1. Are you the complainant or a representative of the complainant? Please check the correct box. ☐ Complainant ☐ Representative

*2. Please give your name and the other information we ask you for on the lines below. If you are a representative, please give the complainant's name and contact information in this section, and your own name and contact information in section 2A.

*Complainant's Name

*Street Address

*City

*State

Zip Code

Telephone number(s) where we can reach you. (Do not give your work number if you don't want CRC to call you there.)

E-mail Address

Best time to contact you.

Name and contact information for someone we can contact if we cannot get in touch with you

2A. If you are the complainant's representative, please give your name and contact information in this section, and attach a letter or other document signed by the complainant, authorizing you to serve as his or her representative.

Representative's Name

Representative's Organization (if any)

Street Address

City

State

Zip Code

Telephone number(s) where we can reach you. (Do not give your work number if you don't want the CRC to call you there.)

E-mail Address

Best time to contact you.

For the rest of the questions on this form, if you are filing this complaint on behalf of someone else, "you" means that person (the complainant), not you personally. Please give the answers the complainant would give if he or she was filling out the form.

***3. This complaint is about something that happened to (Please check the appropriate box):**

☐ Only me ☐ Me and other people ☐ Other people, but not me

***4. Please give the name of the agency, organization, or business that you are complaining about. If you have any contact information for the agency, organization, or business, and/or if you know the name of the person(s) who you think discriminated against you, please give that information as well. If you need more space to give all of the information, please attach more pages to this form.**

***Name of Agency, Organization, or Business**

Telephone Number(s)

Street or Mailing Address

E-mail Address

Name of Person You Think Discriminated

Job Title

E-mail Address

***5. What program was involved in the discrimination you are complaining about? If you do not know the name of the program, and your complaint does not involve an American Job Center or a state or local government agency, please check "Do not know."**

- ☐ Workforce Investment Act and/or Workforce Innovation and Opportunity Act Program
- ☐ Job Corps Program ☐ Older Workers Program (Senior Community Service Employment Program)
- ☐ Unemployment Insurance ☐ Indian/Native American Program
- ☐ Employment Service or Job Service ☐ Migrant and Seasonal Farm Workers Program
- ☐ Trade Assistance Act Program ☐ Vocational Rehabilitation
- ☐ Other (what program? _____)
- ☐ American Job Center ☐ State or Local Government ☐ Do not know

***6. What do you think was the *basis* (reason) for the alleged discrimination? Please check the boxes next to all of the *bases* (reasons) you think were involved in the discrimination, and answer any other questions that go along with that box. In the next question, you will be asked to explain why you checked each box.**

☐ **Because of my National Origin** (Please answer questions below.)

Are you Hispanic or Latino? ☐ Yes ☐ No

What is your national origin (the country from which you, your parents, your grandparents, or your earlier ancestors came)?

☐ **Because of my Limited English Proficiency** (What is the language in which you feel most comfortable communicating?

For example, Spanish, Croatian, Cambodian)

☐ **Because of my Race** (Please answer questions below.)

What is your race? Please check all that apply.

- ☐ White or Caucasian
- ☐ Black or African American
- ☐ American Indian or Alaska Native
- ☐ Native Hawaiian or Other Pacific Islander
- ☐ Asian

- ☐ Because of my Sex (What is your sex? _____)
- ☐ Because of my Pregnancy
- ☐ Because of my Sexual Orientation (What is your sexual orientation? _____)
- ☐ Because of my Gender Identity (What is your gender identity? _____)
- ☐ Because of my Color (What is your color? _____)
- ☐ Because of my Religion (What is your religion? _____)
- ☐ Because of my Age (What is your date of birth? _____)
- ☐ Because of my Political Affiliation or Political Belief (What is your political affiliation or political belief? _____)
- ☐ Because of my Disability (Please check one of the following three boxes.)
- ☐ I have a disability (which may be active or inactive right now). (What is your disability? _____)
- ☐ I have a record of a disability. (What was your past disability? _____)
- ☐ I do not have a disability, but the organization or program treats me as if I am disabled.
- ☐ Because of my Citizenship (What is your citizenship? _____)
- ☐ Because of my participation in a program that receives Federal financial assistance (Name the program: _____)
- ☐ I was Retaliated Against (Retaliation) because I complained about discrimination, or because I gave a statement or was involved in some other way with someone else's discrimination complaint.

*7. For each of the bases (reasons for discrimination) you checked above, please explain what happened, how you were (or someone else was) harmed by what happened, and how or why you think what happened was because of the basis you checked. For example, if you checked "Because of my Race," list the facts you think explain *how or why* you think what happened was because of the race of the persons who were harmed. *If you do not explain why you checked a particular basis, we may reject that part of your complaint.*

If other persons or groups were treated differently from you (or the other people who you think were discriminated against), please describe who was treated differently, how their treatment was different, and how the different treatment harmed you (or the other people you think were discriminated against). Please be specific and brief. Give the name(s) of and contact information for any of the people involved, if you can.

If your answer does not fit in the space below, please use more pages of paper to finish your answer, and attach those pages to this form.

*8. On what date(s) did the alleged discrimination take place?

8A. Date of the first action: _____

8B. Date of most recent action: _____

8C. If the date of the most recent action was more than 180 days ago, please explain why you did not file a complaint before now.

9. Please list below any other people (witnesses, coworkers, supervisors, or others) whom you have not already named and whom we should contact for information about your complaint. Attach additional pages if you need more space for this information.

Person's Name	Relationship to case (witness, coworker, etc.)	Best time to contact this person.
---------------	--	-----------------------------------

Telephone number(s) and/or e-mail address(es) where we can contact this person.

10. Have you filed a written complaint with anyone else, such as the Equal Employment Opportunity Commission (EEOC), or State Equal Opportunity Officer, about the same events or actions you describe on this Complaint Information Form? If yes, please answer these questions, as best you can, about *each* agency, department, organization, or business where you filed a written complaint (using additional pages if necessary):

10A. Where and when did you file your first written complaint? Date Filed _____

Name of Specific Office or Agency, Department, Organization, or Business Phone Number E-mail Address

Mailing or Street Address City State Zip Code

Name and Contact Information for person working on your complaint, if known.

10B. Has the place where you filed your first written complaint given you a final decision about the complaint? ☐ Yes ☐ No

10C. If yes, what was the date of the final decision? _____ Was the decision in writing? ☐ Yes ☐ No

Include copies of written decisions, dismissals, or Right-to-Sue Letters, or other written responses to your complaint that you have received.

11. What remedies are you asking for? For example, getting benefits or training you did not receive, changes in policies, etc.
PLEASE NOTE: The laws that CRC enforces do not allow for punitive damages. Money may only be awarded to compensate victims of discrimination for actual losses.

*12. Please sign and date this form in the space below that applies to you. You must also read the notice on the next page entitled "How We Use Personal Information," and *sign and date the consent form*. CRC cannot accept a complaint for investigation unless both the Complaint Information Form and the Consent Form have been signed.

Signature of Complainant

Date

Signature of Complainant's Representative

Date

Please mail, email, or fax a complaint to:

Mail: Director
Civil Rights Center
U.S. Department of Labor
200 Constitution Avenue, N.W.
Room N-4123
Washington, DC 20210

Fax: (202) 693-6505

Email: CRCEXternalComplaints@dol.gov

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number. Completing this form is voluntary; however, answers to the starred questions and fields must be provided in order for the Department of Labor's Civil Rights Center (CRC) to accept your discrimination complaint. CRC will use the information to process, and where appropriate to investigate, your complaint. The estimated average time to complete this form is 60 minutes. Send comments regarding this estimate or any other aspects of this collection of information to the U.S. Department of Labor, Office of the Assistant Secretary for Administration and Management, Civil Rights Center, Room N-4123, Washington, D.C. 20210. Please reference OMB Control Number 1225-0077.

U.S. Department of Labor
Office of the Assistant Secretary for Administration and Management
Civil Rights Center



HOW WE USE PERSONAL INFORMATION

Two Federal laws govern personal information that is given to Federal agencies such as the **Civil Rights Center (CRC)**. These two laws are the Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552), known as "FOIA." This Notice describes how each of these laws applies to information connected with your complaint. Please read the Notice, sign the Consent Form on the next page, and give the Consent Form to CRC with your Complaint Information Form.

The PRIVACY ACT protects you from misuse of personal information that the Federal government has about you. This law applies to records that the Federal government keeps that can be located by a person's name, social security number, or other personal identification system. Anyone who submits personal information to CRC in connection with a discrimination complaint should know the following:

1. CRC enforces civil rights laws that cover State and local government agencies, programs conducted by DOL, recipients of financial assistance from DOL, and certain recipients of financial assistance from other Federal departments and agencies ("covered entities"). CRC has the authority to investigate and make determinations on complaints alleging that a covered entity has discriminated on the basis of race, color, national origin, age, disability, sex/gender, religion, political affiliation or belief, citizenship, and participation in a program or activity that receives financial assistance under Title I of the Workforce Investment Act of 1998 (WIA) and/or Title I of the Workforce Innovation and Opportunity Act of 2014. CRC is also authorized to conduct reviews of covered entities to evaluate whether they are complying with the civil rights laws that CRC enforces.
2. Information that CRC collects is analyzed by authorized personnel within the agency. This information may include personnel records or other personal information. CRC staff may need to reveal certain information to persons outside the agency in the course of verifying facts or gathering new facts to develop a basis for making a civil rights compliance determination. Such details could include the physical condition or age of a complainant. CRC also may be required to reveal certain information to any individual who requests it under the provisions of the Freedom of Information Act. (See below.)
3. Personal information will be used only for the specific purpose for which it was submitted, that is, for authorized civil rights compliance and enforcement activities. Except in the instances defined in DOL's regulation at 29 C.F.R. Part 71, CRC will not release the information to any other agency or individual unless the person who supplied the information submits a written consent. One of these exceptions is when release is required under the Freedom of Information Act. (See below.)
4. No law requires a complainant to give personal information to CRC, and no sanctions will be imposed on complainants or other individuals who deny CRC's request. However, if CRC fails to obtain information needed to investigate the ability of allegations of discrimination, it may be necessary to close the investigation.
5. The Privacy Act permits certain types of systems of records to be exempt from some of its requirements, including the access provisions. It is the policy of CRC to exercise authority to exempt systems of records only in compelling cases. CRC may deny a complainant access to the files compiled during the agency investigation of his or her civil rights complaint against a covered entity. Complaint files are exempt in order to aid negotiations between covered entities and CRC in resolving civil rights issues and to encourage covered entities to furnish information essential to the investigation.
6. CRC does not reveal the names or other identifying information about an individual unless it is necessary for the completion of an investigation or for enforcement activities against a covered entity that violates the laws, or unless such information is required to be disclosed under FOIA or the Privacy Act. CRC will keep the identity of complainants confidential except to the extent necessary to carry out the purposes of the civil rights laws, or unless disclosure is required under FOIA, the Privacy Act, or otherwise required by law.

The **FREEDOM OF INFORMATION ACT** gives the public access to certain files and records of the Federal Government. Individuals can obtain items from many categories of records of the Government – not just materials that apply to them personally. CRC must honor requests under the Freedom of Information Act, with some exceptions. CRC generally is not required to release documents during an investigation or enforcement proceedings if the release could have an adverse effect on the agency to do its job. Also, any Federal agency may refuse a request for records compiled for law enforcement purposes if their release could be an "unwarranted invasion of privacy" of an individual. Requests for other records, such as personnel and medical files, may be denied where the disclosure would be a "clearly unwarranted invasion of privacy."

PLEASE READ THE CONSENT FORM ON THE NEXT PAGE, SIGN EITHER SECTION A OR SECTION B, AND GIVE THE SIGNED FORM TO THE CIVIL RIGHTS CENTER WITH YOUR SIGNED, COMPLETED COMPLAINT INFORMATION FORM.

CONSENT FORM

I have read the Civil Rights Center's notice entitled "How We Use Personal Information." I understand that the following conditions apply to personal information I disclose to CRC in connection with my complaint:

CRC may need to disclose my identity to staff of the agency, organization, or business I named in my complaint, in order to gather evidence or verify facts related to the complaint, or to complete enforcement proceedings against the agency, organization, or business;

I do not have to reveal any personal information to CRC, but CRC may close my case if it cannot get the information it needs to process or fully investigate my complaint;

I may request a copy of any of my personal information that CRC keeps in my complaint file; and

Under certain conditions, CRC may be required by the Freedom of Information Act or other laws to disclose my personal information to others

SECTION A

- ☐ YES, CRC MAY DISCLOSE MY IDENTITY IF NECESSARY TO FULLY INVESTIGATE MY COMPLAINT. I have read and understand the notice "How We Use Personal Information," and I give consent for CRC to disclose my identity to the respondent, if necessary to fully investigate my complaint.

(Signature)

(Date)

SECTION B

- ☐ NO, CRC MAY NOT DISCLOSE MY IDENTITY TO THE RESPONDENT, EVEN IF NECESSARY TO FULLY INVESTIGATE MY COMPLAINT. I have read and understand the notice "How We Use Personal Information," and I understand that CRC may close my case if it cannot get the information it needs to fully investigate my complaint without disclosing my identity to the respondent. Nonetheless, I do not give consent for CRC to disclose my identity to the respondent during the investigation of my complaint.

(Signature)

(Date)

FOR DOL USE ONLY

CIF received by the CRC ___ Accepted ___ Not Accepted Case Number _____

By _____ Date _____

Departamento de Trabajo de los Estados Unidos - U.S. Department of Labor

Oficina del Secretario Adjunto para Administración y Gestión - Office of the Assistant Secretary for Administration and Management
Centro de Derechos Civiles - Civil Rights Center



Formulario de Queja

DL 1-2014A (Rev 7/2015)

OMB Número de Control 1225-0077 Fecha de Expiración: 28/2/2021

Por favor lea este formulario con mucho cuidado. Escriba sus respuestas a mano o a máquina. Conteste cada pregunta con la mayor precisión posible. Si la respuesta no cabe en el espacio, usted puede añadir más páginas.

La información solicitada que tiene un asterisco (*) al lado es obligatoria. Usted debe proporcionar dicha información. Usted no tiene que contestar las otras preguntas, pero sus respuestas le ayudaran al Centro de Derechos Civiles (CRC, por sus siglas en inglés) procesar su queja. Si no conoce la respuesta a una pregunta, responda "no se" en el espacio. Si la pregunta no aplica en su caso, indique "n/a."

*1. ¿Es el denunciante o el representante del denunciante? Por favor marque la casilla que corresponda. ☐ Denunciante ☐ Representante

*2. Por favor indique su nombre y la otra información solicitada abajo. Si usted es un representante del denunciante, indique el nombre del denunciante y su información de contacto en esta sección, y su propio nombre e información de contacto en la sección 2A.

*Nombre

*Dirección

*Ciudad

*Estado

Código Postal

Número(s) de teléfono para comunicarnos con usted (No incluya el teléfono de su trabajo si no quiere que el CRC se comunique a este número)

Correo electrónico

Mejor hora para comunicarnos con usted

Nombre e información de contacto para alguien que podamos contactar si no podemos comunicarnos con usted

2A. Si usted está representando al denunciante, por favor indique su nombre, dirección y como nos podemos comunicar con usted. Por favor incluya una carta u otro documento firmado por el denunciante que le autorice para servir como el representante del denunciante.

Nombre del Representante

Organización del representante (si existe)

Dirección

Ciudad

Estado

Código Postal

Número(s) de teléfono para comunicarnos con usted (No incluya el teléfono de su trabajo si no quiere que el CRC se comunique a este número)

Correo electrónico

Mejor hora para comunicarnos con usted

Para las siguientes preguntas, si usted está presentando la queja por otra persona, "usted" significa esa persona (el denunciante), no significa usted. Por favor indique las respuestas que el denunciante indicaría, si él o ella estuviera llenando el formulario.

*3. Esta queja tiene que ver con un asunto que le ocurrió (por favor marque la casilla que corresponda):

☐ Solamente a mí ☐ A mí y a otras personas ☐ A otras personas, pero no a mí

*4. Por favor indique el nombre de la agencia, organización, o empresa sobre la cual usted se está quejando. Si tiene la información de contacto de esta agencia, organización o empresa, y/o si usted sabe el nombre de la(s) persona(s) quien usted alega discrimino contra usted, por favor incluya esa información también. Si necesita más espacio para su respuesta, por favor utilice páginas adicionales para completar su respuesta, y adjunte esas páginas a este formulario.

Nombre de la agencia, organización, o empresa		Número(s) de teléfono
Dirección		Correo electrónico
Nombre de la persona que usted alega discriminó	Título de Trabajo	Correo electrónico

*5. ¿Cuál programa está relacionado a la acción discriminatoria alegada? Si no conoce el nombre del programa y su queja no se relaciona con un Centro de Trabajo Americano (*American Job Center*) o con alguna agencia de un gobierno local o estatal, por favor marque "No sé."

- | | |
|---|--|
| <input type="checkbox"/> Un programa de la Ley de Inversión en la Fuerza Laboral y/o la Ley de Oportunidad e Innovación en la Fuerza Laboral (<i>Workforce Investment Act y/o Workforce Innovation and Opportunity Act Program</i> o WIA y/o WIOA, por sus siglas en inglés) | <input type="checkbox"/> El Programa de Empleo del Adulto Mayor por Servicio a la Comunidad (<i>Senior Community Service Employment Program</i> o SCSEP por sus siglas en inglés) |
| <input type="checkbox"/> El Cuerpo de Capacitación de Jóvenes (<i>Job Corps</i>) | <input type="checkbox"/> El Programa de Indios/Indígenas Americanos (<i>Indian/Native American Program</i>) |
| <input type="checkbox"/> Seguro de Desempleo (<i>Unemployment Insurance</i>) | <input type="checkbox"/> El Programa de Trabajadores Agrícolas Migrantes y de Temporada (<i>Migrant and Seasonal Farmworkers Program</i> o MSFW por sus siglas en inglés) |
| <input type="checkbox"/> El Servicio de Empleo o de Trabajo (<i>Employment or Job Service</i>) | <input type="checkbox"/> Un Programa de Rehabilitación Vocacional (<i>Vocational Rehabilitation</i>) |
| <input type="checkbox"/> El Programa de Asistencia de Ajuste Comercial (<i>Trade Assistance Act program</i> o TAA por sus siglas en inglés) | <input type="checkbox"/> Un gobierno estatal o local |
| <input type="checkbox"/> Otro (¿Qué programa?) | <input type="checkbox"/> No sé |
- ☐ Un Centro de Trabajo Americano (*American Job Center*)

*6. ¿Por qué cree usted que aconteció la discriminación alegada? Por favor marque las casillas al lado de los motivos que usted piensa estuvieron relacionados a la discriminación alegada, y conteste cualquier otra pregunta relacionada. *En la próxima pregunta, pediremos que explique porque ha marcado cada casilla.*

☐ Por mi origen nacional (Por favor conteste las siguientes preguntas)

¿Es usted Hispano o Latino?

Si ☐

No ☐

¿Cuál es su origen nacional? (el país de donde viene(n) usted, sus padres, sus abuelos, o sus ancestros)

☐ Por mi dominio limitado del Inglés (¿En cuál idioma se comunica con más comodidad?)

(Por ejemplo: español, croata, camboyano)

☐ Por mi raza (Por favor conteste la siguiente pregunta)

¿Cuál es su raza? Por favor marque las casillas que aplican a usted.

☐ Blanco/Caucásico

☐ Negro o Afroamericano

☐ Asiático

☐ Nativo de Hawái u otra isla del Pacífico

☐ Indígena Americano o Nativo de Alaska

☐ Por mi sexo. (¿Cuál es su sexo?)

☐ Por mi embarazo

☐ Por mi orientación sexual (¿Cuál es su orientación sexual?)

☐ Por mi identidad de género (¿Cuál es su identidad de género?)

☐ Por mi color (¿Cuál es su color?)

☐ Por mi religión (¿Cuál es su religión?)

☐ Por mi edad (¿Cuál es su fecha de nacimiento?)

☐ Por mi afiliación política o creencia política (¿Cuál es su afiliación política o creencia política?)

☐ Por mi discapacidad (Por favor marque las casillas que aplican a usted)

☐ Tengo una discapacidad (activa o inactiva por el presente). (¿Cuál es su discapacidad?)

☐ Tengo un historial de una discapacidad. (¿Cuál fue su discapacidad?)

☐ No tengo una discapacidad, pero la organización o el programa me trata como si fuera una persona discapacitada.

☐ Por mi ciudadanía (¿Cuál es su ciudadanía?)

☐ Por mi participación en un programa que recibe ayuda financiera federal (Indique el nombre del programa)

☐ Soy víctima de represalia porque presenté una queja de discriminación, o porque di una declaración en una investigación o de otra manera participé en una queja de discriminación de otra persona.

***7. Por cada motivo que usted indicó anteriormente, por favor explique lo que pasó, como usted (u otra persona) fue afectado por lo que ocurrió, y como o porque usted cree que la razón por lo que ocurrió fue a raíz del motivo que usted indicó anteriormente. Por ejemplo, si usted indicó "por mi raza," incluya los hechos que usted opina explican como o porque la raza de las personas afectadas tuvo que ver con lo que ocurrió. Si usted no explica porque indicó un motivo, podríamos rechazar esa parte de su queja.**

Si usted (o las personas que usted opina sufrieron discriminación) fue tratado de una manera diferente que a otras personas o grupos, por favor describa quien fue tratado de manera diferente, como fue tratado de manera diferente, o como el tratamiento diferente le perjudicó a usted (y/o a las otras personas que usted cree sufrieron discriminación). Por favor sea específico y breve. Si es posible, indique los nombres y la información de contacto para cada persona involucrada en este asunto.

Si necesita más espacio para su respuesta, por favor utilice páginas adicionales para completar su respuesta, y adjunte esas páginas a este formulario.

***8. ¿En qué fechas ocurrieron las acciones discriminatorias?**

8A. Fecha de la primera acción: _____

8B. Fecha de la acción más reciente: _____

8C. Si han pasado más de 180 días desde que ocurrió la acción más reciente, por favor explique porque usted no había presentado su queja antes.

9. Por favor indique cualquier persona (testigos, compañeros de trabajo, supervisores, u otros) que no haya nombrado anteriormente y con quien nos pudiéramos comunicar para reunir información relacionada a su queja. Por favor adjunte páginas adicionales si necesita más espacio para esta información.

Nombre de la Persona	Relación al caso (testigo, compañero, etc.)	Mejor hora para comunicarnos con esta persona
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Número(s) de teléfono y/o correo(s) electrónico(s) para comunicarnos con esta persona

10. ¿Ha presentado una queja escrita con otra agencia, como la Comisión para la Igualdad de Oportunidades en el Empleo (EEOC, por sus siglas en inglés) o con un oficial de oportunidad igualitaria estatal (state equal opportunity officer), sobre las mismas acciones que describe en este formulario de queja? De ser así, por favor conteste las siguientes preguntas, a la medida de sus capacidades, sobre cada agencia, departamento, organización, o negocio donde usted presentó una queja (utilice páginas adicionales si es necesario):

10A. ¿Dónde y cuándo presentó su primera queja escrita? Fecha en que la presentó _____

Nombre de la oficina, agencia, departamento, organización o negocio	Número de teléfono	Correo electrónico
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Dirección	Ciudad	Estado	Código Postal
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Nombre e información de contacto de la persona encargada de su caso, si usted lo sabe.

10B. ¿Ha recibido una decisión final del primer lugar donde presentó su queja escrita? Sí ☐ No ☐

10C. De ser así, ¿Cuál fue la fecha de la decisión final? _____ ¿Recibió la decisión por escrito? Sí ☐ No ☐

Incluya copias de decisiones escritas, despidos, derechos a demandar u otras cartas o avisos relacionados a esta queja.

11. ¿Cuáles remedios solicita? Por ejemplo, recibir beneficios o capacitación que usted no recibió, cambiar una política o procedimiento, etc. **POR FAVOR TOME EN CUENTA: Las leyes que hace cumplir el CRC no permiten daños punitivos. Se otorgaría dinero a las víctimas de discriminación únicamente para compensar las pérdidas actuales.**

*12. Por favor, firme y ponga la fecha en el espacio abajo. Usted también debe leer la notificación de "Uso de Información Personal" en la próxima página y firme y escriba la fecha en el formulario de consentimiento también. El CRC no puede aceptar esta queja para investigación si el formulario de información de queja y el formulario de consentimiento no se han firmado.

Firma del denunciante

Fecha

Firma del Representante del denunciante

Fecha

Por favor envíe por correo, correo electrónico o facsímil a:

Correo: Director
Civil Rights Center
U. S. Department of Labor
200 Constitution Avenue, N.W.
Room N-4123
Washington, DC 20210

Facsímil: (202) 693-6505

Correo electrónico: CRCEXternalComplaints@dol.gov

No se requiere que las personas respondan a una solicitud de información a menos que tenga un número de control de OMB válido. Llenar este formulario es voluntario; sin embargo, debe responder a las preguntas y proporcionar la información solicitada que tiene un asterisco (*) al lado, para que el Centro de Derechos Civiles del Departamento del Trabajo de los Estados Unidos pueda aceptar su queja de discriminación. El CRC utilizará la información para procesar, y cuando apropiado, investigar su queja. El tiempo promedio para llenar este formulario es 60 minutos. Envíe comentarios sobre el tiempo estimado para llenar el formulario, o cualquier otro aspecto de esta recopilación de información, al U.S. Department of Labor, Office of the Assistant Secretary for Administration and Management, Civil Rights Center, Room N-4123, Washington, DC 20210. Por favor, haga referencia a OMB Número de Control 1225-0077.

U.S. Department of Labor

Office of the Assistant Secretary for Administration and Management

Civil Rights Center

Uso de Información Personal

Hay dos leyes federales que gobiernan el uso de información personal sometida a una agencia federal, incluyendo el Centro de Derechos Civiles (CRC, por sus siglas en inglés). Estas leyes son la Ley de Privacidad de 1974 (*Privacy Act*, 5 U.S.C. 552a), y la Ley de Libre Acceso a la Información (*Freedom of Information Act*, 5 U.S.C. 552), conocida como "FOIA" por sus siglas en inglés. Esta notificación describe como aplican estas leyes a la información relacionada con su queja. Por favor, lea esta notificación, luego firme el Formulario de Consentimiento en la siguiente página y devuélvalo junto con el formulario de queja al CRC.

La Ley de Privacidad protege el individuo contra el uso indebido de su información personal. La ley aplica a los documentos que el gobierno federal mantiene y que pueden ser ubicados usando el nombre, número de seguro social o algún otro sistema de identificación personal. Las personas que entregan información relacionada a una queja al CRC deben saber lo siguiente:

1. El CRC hace cumplir leyes de derechos civiles que cubren agencias estatales y locales, programas dirigidos por el Departamento de Trabajo de los Estados Unidos (DOL, por sus siglas en inglés), recipientes de asistencia financiera del DOL, y algunos recipientes de asistencia financiera de otros departamentos y agencias ("entidades cubiertas"). El CRC está autorizado para investigar y hacer determinaciones sobre quejas de discriminación donde se alega que una agencia que cae bajo la jurisdicción del DOL ha discriminado por razón de raza, color, origen nacional, edad, discapacidad, sexo/identidad de género, religión, afiliación o creencia política, ciudadanía, o por participación en un programa o actividad que recibe asistencia financiera bajo el Título I de la Ley de Inversión en la Fuerza Laboral de 1998 (WIA, por sus siglas en inglés) y/o el Título I de la Ley de Oportunidad e Innovación en la Fuerza Laboral de 2014 (WIOA, por sus siglas en inglés). El CRC está también autorizado para llevar a cabo revisiones de programas que están bajo la jurisdicción del DOL para determinar si están cumpliendo con las leyes de derechos civiles que el DOL hace cumplir.
2. La información recopilada por el CRC es analizada por personal autorizado de la agencia. Esta información puede incluir documentos o información personal. Durante el proceso de corroboración de hechos o de recoger nuevos hechos para hacer una determinación sobre una queja de discriminación, es posible que el personal del CRC necesite revelar información a personas fuera de la agencia. La información revelada puede incluir, por ejemplo, datos sobre la condición física o la edad de la persona. Es posible también que el CRC necesite proporcionar información a cualquier persona que la solicite bajo los derechos provistos por la Ley de Libre Acceso a la Información.
3. El CRC usará la información personal con el único propósito que fue sometida, es decir, para actividades investigativas y de implementación de las leyes autorizadas. Con excepción de las circunstancias que se describen en las regulaciones del DOL (en 29 C.F.R. Part 71), el CRC no revelará ninguna información a otra agencia o individuo, a no ser que la persona que revela la información proporcione consentimiento escrito. Una de estas excepciones es cuando la Ley de Libre Acceso a la Información requiera que se revele cierta información. (Lea abajo.)
4. Ninguna ley requiere que un denunciante dé información personal al CRC, y no se penalizará el denunciante u otro individuo que se niegue a dar la información solicitada. Sin embargo, si el CRC no puede obtener la información necesaria para investigar la discriminación alegada, podría ser necesario cerrar la investigación.
5. La Ley de Privacidad permite que ciertos tipos de sistemas de archivo sean exentos de algunos de estos requisitos, incluyendo medidas de acceso. La política del CRC es de ejercer autoridad de eximir sistemas de archivo solamente en situaciones extenuantes. El CRC puede denegar a un denunciante acceso a archivos recopilados durante la investigación de una queja de discriminación contra una agencia investigada por el CRC. Archivos de quejas están exentos para ayudar las negociaciones entre de las entidades cubiertas y el CRC, solucionar asuntos de derechos civiles, y motivar las agencias a proporcionar información importante para la investigación.
6. El CRC no revela los nombres u otros datos que pueda identificar un individuo a no ser que esto sea necesario para completar una investigación o para proceder con medidas de implementación contra una agencia que haya violado la ley, o a no ser que bajo FOIA o la Ley de Privacidad se requiera divulgar la información. El CRC mantiene la identidad del denunciante de manera confidencial excepto que sea necesario descubrir la información para llevar a cabo el propósito de las leyes de derechos civiles, o a no ser que sea necesario bajo FOIA, La Ley de Privacidad, o de otra manera requerido por ley.

La Ley de Libre Acceso a la Información da acceso al público a los archivos y documentos del gobierno federal. Las personas pueden solicitar información de varios tipos de archivos del gobierno - no solamente material que aplica a ellos personalmente. El CRC debe atender solicitudes bajo la Ley de Libre Acceso a la Información, con algunas excepciones. Generalmente, el CRC no está obligado a divulgar documentos durante el transcurso de una investigación o procedimiento para implementar requisitos de ley, si la divulgación de información pudiera tener un efecto negativo en completar el trabajo de la agencia. Además, cualquier agencia federal puede negar una solicitud de archivos recopilados con el propósito de hacer cumplir la ley, si la divulgación constituye una "invasión de la privacidad de una persona de manera injustificada". Solicitudes para otros archivos, tales como registros médicos o de personal, pueden ser denegados si la divulgación constituye una "invasión a la privacidad de manera clara e injustificada."

Por favor lea y firme el formulario de consentimiento en la próxima página, firme la sección A o la sección B, y entregue el formulario firmado al CRC, junto con el formulario de queja completo y firmado.

FORMULARIO DE CONSENTIMIENTO

Yo he leído la notificación sobre el "Uso de Información Personal" del Centro de Derechos Civiles (CRC, por sus siglas en inglés.) Yo entiendo las siguientes condiciones de la Ley de Privacidad y de la Ley de Libre Acceso a la Información, que aplican a información personal que yo he revelado al CRC en relación con mi queja:

El CRC necesitaría revelar mi identidad a empleados de la agencia, organización, o negocio que yo mencioné en mi queja, para poder conseguir la evidencia o verificar hechos relacionados con mi queja, o para completar procedimientos de implementación de ley contra la agencia, organización o negocio;

No estoy obligado(a) a revelar información personal al CRC, pero el CRC puede cerrar mi caso si me niego a revelar información necesaria para poder investigar a fondo mi queja;

Yo puedo solicitar copia de cualquier información personal que CRC tenga en mi archivo de queja;

Bajo ciertas condiciones, el CRC puede ser obligado a revelar información personal a otras personas por medidas establecidas bajo la Ley de Libre Acceso a la Información.

SECCION A

- ☐ SI, EL CRC PUEDE REVELAR MI IDENTIDAD SI ES NECESARIO PARA PODER INVESTIGAR MI QUEJA. Yo he leído y entiendo la notificación "Uso de Información Personal", y doy consentimiento al CRC para que revele mi información al demandado, si es necesario para investigar a fondo mi queja.

(Firma)

(Fecha)

SECCION B

- ☐ NO, EL CRC NO PUEDE REVELAR MI IDENTIDAD AL DEMANDADO, AUNQUE SEA NECESARIO PARA PODER INVESTIGAR A FONDO MI QUEJA. Yo he leído y entiendo la notificación "Uso de Información Personal", y entiendo que el CRC podría cerrar mi caso si no puede conseguir la información necesaria para investigar mi queja adecuadamente sin revelar mi identidad al demandado. A pesar de esto, no doy consentimiento al CRC para revelar mi identidad al demandado durante el transcurso de la investigación de mi queja.

(Firma)

(Fecha)

SOLO PARA USO DEL CRC

FOR DOL USE ONLY

CIF received by CRC

☐ Accepted

☐ Not Accepted

Case Number

By

Date



Unified Workforce Development System Complaint Log

WDB / OSCC:

Complaint Officer:

Program Year

Quarter Ending:

30-Sep

31-Dec

31-Mar

30-Jun

[illegible]**CAREER CENTER COMPLAINT LOG INSTRUCTIONS:**

The appropriate status identifier should be circled on a timely basis as the complaint reaches each new status level.

Type: Highlight the numeric identifier to indicate type of complaint: 1 Career Center Services; 2 Non-Career Center Services; 3 Financial Aid; 4 Other. (Example, first complaint of PY 2010 will be: 10-001, the next 10-002)

MSFW: If complaint is filed by a Migrant/Seasonal Farm Worker highlight YES, if not, highlight NO (response must be entered, do not leave blank)
Status of Complaint: Highlight the numeric identifier in brackets: 1 In progress; 2 Closed; 3 Dismissed; 4 Appeal Pending; 5 Appeal Finalized

to USDOL Regional Administrator; 8. Remanded to local level

Response: Highlight the numeric identifier to indicate: 1 Local Level; 2 State Level; 3 Hearing Level; 4 Enforcement Agency; 5 Did Not Appeal; 6 Fail to Respond; 7 USDOL Regional Administrator

Attachment F1

Instructions for Completion and Submission of the Complaint System Log

Complaint System Logs are due in the State Monitor Advocate's office by the 30th working day of the month following the end of a quarter. E-mail complaint logs to: Jose.Ocasio@MassMail.State.MA.US.

Reporting Quarters are as follows:

1st quarter ends September 30th
2nd quarter ends December 31st

3rd quarter ends March 31st
4th quarter ends June 30th

WDB / OSCC: Enter name of location submitting the complaint log.

Program Year (PY): Enter PY for which report is being submitted. Each Program Year begins July 1 and ends June 30th.

Complaint Officer: Enter the name of the complaint officer or back-up assigned to this location.

Quarter Ending: Check quarter, according to ending month, for which the report is being submitted.

Complaint Number (No): Enter the complaint number assigned by local office to the complaint (Last two digits of Program Year + consecutive 3 digit ID number. (Example, first complaint of PY 2010 will be: 10-001, the next 10-002)). Complaint numbers should run continuously throughout the Program Year, restarting at #1 beginning July 1 of each Program Year.

Date: Enter date complaint was received.

Name of Complainant: Enter name of individual / interested party lodging the complaint.

Name of Respondent: Enter name of the organization / person against which the complaint is being lodged.

Type: Highlight the numeric identifier to indicate type of complaint: 1 Career Center Service; 2 Non-Career related; 3 Employer; 4 Training; 5 Crime, Fraud, Waste; 6 Discrimination; 7 Apparent Violation

MSFW: If complaint is filed by or on behalf of a Migrant/Seasonal Farm Worker highlight - YES, if not, highlight NO (response must be entered, do not leave blank)

Status of Complaint: Highlight the numeric identifier to indicate: 1 In process, Local; 2 Info Request, Local; 3 In-process, State; 4 Info Request, State; 5 Hearing; 6 Enforcement Agency; 7 Appeal to USDOL Regional Administrator; 8 Remanded to local level. The appropriate status identifier should be highlighted on a timely basis as the complaint reaches each new status level.

Comments: Enter any appropriate comments / notes pertinent to the complaint.

Resolved: Highlight the numeric identifier to indicate: 1 Local Level; 2 State Level; 3 Hearing Level; 4 Enforcement Agency; 5 Did Not Appeal; 6 Fail to Respond; 7 USDOL Regional Administrator

Requests for additional information or forms may be directed to José V. Ocasio, State Monitor Advocate, at (617) 626-5587 or Jose.Ocasio@MassMail.State.MA.US

HOW TO FILE A COMPLAINT

Complete the One-Stop Career Center (OSCC) Complaint/Referral Record and include all of the following:

1. Copies of all documents related to your complaint.
2. A detailed explanation of your complaint, in the order they occurred, including:

- dates
- other parties involved
- names of the people you dealt with

3. A summary of efforts you've already made to resolve the problem.

It's important to give us as much information about the problem as possible. This will assist us in providing a quicker response to you.

YOU MAY FILE A COMPLAINT:

In person:

At your nearest One-Stop Career Center (OSCC)

By mail:

Department of Career Services

19 Staniford Street, First Floor

Boston, MA 02114

Attention: State Monitor Advocate

Phone:

Boston (617) 626-5587

Springfield (413) 452-4688

Email:

jocasio@detma.org

KEEPING INFORMED

The Complaint Officer will keep you informed of action taken concerning your One-Stop Career Center-related complaint.

This material will be made available to sensory-impaired individuals upon request.

IF YOU HAVE A COMPLAINT ABOUT:

- A One-Stop Career Center (OSCC)
- A job you were referred to by the One-Stop Career Center
- The Trade Adjustment Assistance (TAA) Program
- Agricultural employment
- Department of Career Services-referred training programs
- You believe you have experienced discrimination
- Other employment-related complaints

TO LOCATE A ONE-STOP CAREER CENTER IN YOUR COMMUNITY, VISIT:
mass.gov/careercenters



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The Unified Complaint System A Worker's Guide



THE UNIFIED COMPLAINT SYSTEM

Each One-Stop Career Center (OSCC) must have an assigned and properly trained staff person and designated backup to receive complaints during normal OSCC hours.

OSCC staff will assist and record in writing any complaint filed by applicants, Migrant and Seasonal Farm Workers (MSFW), and/or interested parties involving: acts or omissions on services provided or violations to wage regulations, job orders, terms and conditions of employment, field sanitation, farm labor housing standards, etc. Complaints will be logged and immediately referred to the Complaint Officer (CO) or to the State Monitor Advocate, if MSFW-related. The Complaint Officer will inform the complainant of the action(s) that will be taken and will provide monthly or quarterly follow-up on the complaint until it has been resolved.

DEFINITIONS:

Complainant: means a representation made or referred to a state or local OSCC office of a violation of the OSCC regulations and/or other federal, state, or local employment-related law.

Respondent: means the employer, person, entity or state agency official responsible to respond to the alleged violation(s) described in the complaint.

Complainant: means the individual, employer, organization, association, or other entity filing a complaint.

WHO MAY FILE COMPLAINTS?

- Individuals
- Business
- Organizations
- Employers
- Interested parties



TYPES OF COMPLAINTS

Complaints are categorized as OSCC and non-OSCC related.

OSCC-Related Complaints are:

- Employer-related Complaints: Complaints against an employer about the specific job to which the applicant was referred by the OSCC involving violations of the terms and conditions of the job order or employment-related law,
- Agency-related Complaints: Complaints about a One-Stop Career Center actions or omissions under Workforce Innovation and Opportunity Act (WIOA) regulations, or
- Complaints against the State Workforce Agency (SWA).

Non-OSCC-Related Complaints are: All other complaints that are not One-Stop Career Center-related.

MSFW Complaints are: Complaints from MSFWs alleging violations of employment-related laws enforced by the Wage and Hour Division (WHD) or the Occupational Safety and Health Administration (OSHA) must be taken in writing by the State agency and referred to the appropriate enforcement office for resolution. For MSFW complaints, the local One-Stop Career Center office has five days to attempt to resolve the complaint, for non-MSFWs, 15 days allowed.

Discrimination Complaints are: If you think that you have been subjected to discrimination under a WIOA Title I-financially-assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either: the Executive Office of Labor and Workforce Development (EOLWD) Director of Diversity or the United States Department of Labor (USDOL) Civil Rights Center Director.

HEARING/APPEAL PROCESS

The state or local Complaint/Equal Opportunity (EO) officers will provide detailed information about the process to submit appeals. Depending on the type of complaint, appeals must be submitted, in writing, within the time frames listed in the determination notice.

What happens after you submit your complaint...

1. The Complaint Officer (CO) will determine if the complaint falls within our jurisdiction.
 - If we have no jurisdiction, we'll notify you.
 - Violations to OSHA and WHD will be documented and referred to the appropriate enforcement agency for resolution.
 - If it's within our jurisdiction, we may conduct an administrative or full investigation.
2. The Complaint Officer (CO) will act as an impartial, fact-finding third party. During the investigation, they aren't representing you, us, the employer or the service provider. The CO may contact you for additional information or the person you filed your complaint against to ask for a response, and may give them a copy of your complaint. The length an investigation takes will depend on current caseload and complexity of the case.
3. After all the facts have been gathered, we evaluate the information and make a determination.
4. We'll notify you of the outcome of your complaint.
5. In his response, the CO will provide you detailed information about the process to submit appeals or request a hearing.

El Sistema Unificado de Querellas Una Guía para Trabajadores

MANTENERSE INFORMADO/A

El Oficial de Querellas le mantendrá informado/a de acción tomada con respecto a su querrela relacionado con el Centro de Recursos Profesionales "One-Stop."

Este material se hará disponible a individuos con discapacidades sensoriales a petición.

PARA LOCALIZAR UN CENTRO DE RECURSOS PROFESIONALES "ONE- STOP" EN SU COMUNIDAD, VISITE: mass.gov/careercenters



2. Una explicación detallada de su querrela, en orden cronológico, incluyendo:

- fechas
- otras partes implicadas
- nombres de las personas con quienes usted trató

3. Un resumen de los esfuerzos que ya hizo para resolver el problema.

Es importante darnos la máxima información posible sobre el problema. Esto nos asistirá a darle una respuesta más rápida.

PUEDEN PRESENTAR UNA QUERRELA:

En persona:

En el Centro de Recursos Profesionales "One-Stop" (One-Stop Career Center, OSCC por sus siglas en inglés) que más te convenga

Por correo:

Department of Career Services
19 Staniford Street, First Floor
Boston, MA 02114
Dirigido a: State Monitor Advocate

Por teléfono:

Boston (617) 626-5587
Springfield (413) 452-4688

Por correo electrónico:

DCSUnifiedComplaint@detma.org



**MASSACHUSETTS
ONE-STOP
CAREER CENTERS**
A proud partner of the AmericanJobCenter network



SI TIENE UNA QUERRELA SOBRE:

- Un Centro de Recursos Profesionales "One-Stop" (One-Stop Career Center, OSCC por sus siglas en inglés)
- Un trabajo a que le refirieron en el Centro de Recursos Profesionales "One-Stop"
- El Programa de Asistencia por Ajuste Comercial (The Trade Adjustment Assistance, TAA por sus siglas en inglés)
- Empleo agrícola
- Programas de Capacitación recomendados por el Departamento de Servicios Profesionales
- Discriminación que Usted cree que haya experimentado
- Otros asuntos relacionados con el empleo

EL SISTEMA UNIFICADO DE QUERELLAS

Cada Centro de Recursos Profesionales "One-Stop" (One-Stop Career Center, OSCC por sus siglas en inglés) tiene que tener un miembro de su personal asignado y capacitado apropiadamente y apoyo designado para recibir querellas durante las horas normales de ese OSCC.

El personal de OSCC ayudará y grabará por escrito cualquier querella presentada por los solicitantes. Trabajadores Migrantes y Temporeros de Granja (Migrant and Seasonal Farm Workers, MSFW por sus siglas en inglés), y/o partes interesadas implicadas en: actos u omisiones en servicios proporcionados o violaciones a reglamentos de paga, órdenes de trabajo, términos y condiciones de empleo, saneamiento campestre, estándares de domiciliación de labor agrícola, etc. Se registrarán las querellas y se referirán inmediatamente al Oficial de Querellas (Complaint Officer, CO por sus siglas en inglés) o al Vigilante Abogado Estatal (State Monitor Advocate), si tiene que ver con MSFW. El Oficial de Querellas informará al querellante de la(s) acción(es) que se tomará(n) y administrará un seguimiento mensual o trimestral de la querella hasta que se haya resuelto.

DEFINICIONES:

Querella: Una representación hecha o referida a una oficina estatal o local de OSCC de una violación de las regulaciones de OSCC y/u otra ley federal, estatal, o local relacionada con el empleo.

Respondedor: El empleador, la persona, entidad u oficial de la agencia estatal responsable de responder a la(s) alegada(s) violación(es) descritas en la querella.

Querellante: El individuo, empleador, la organización, asociación, u otro entidad presentando una querella.

¿QUIÉN PUEDE PRESENTAR QUERELLAS?

- Individuos
- Business
- Organizaciones
- Empleadores
- Partes Interesadas



TIPOS DE QUERELLAS

Se categorizan las querellas como relacionadas con OSCC o no relacionadas con OSCC.

Querellas Relacionadas con OSCC:

- Querellas Relacionadas con el Empleador: Querellas contra un empleador sobre el trabajo específico al que el solicitante fue referido/a por OSCC respecto a violaciones de los términos y condiciones del orden de trabajo o de una ley relacionada con el empleo.
 - Querellas Relacionadas con la Agencia: Querellas sobre las acciones u omisiones de un Centro de Recursos Profesionales "One-Stop" conforme a las regulaciones del Acto de Innovación y Oportunidad para la Fuerza Laboral (Workforce Innovation and Opportunity Act, WIOA por sus siglas en inglés), o
 - Querellas contra la Agencia Estatal de la Fuerza Laboral (State Workforce Agency, SWA por sus siglas en inglés).
- Non-OSCC-Related Complaints are:** Querellas No Relacionadas con OSCC son: Todas otras querellas que no son relacionadas con los Centros de Recursos Profesionales "One-Stop".

Querellas de MSFW son: Querellas de MSFW alegando violaciones de leyes relacionadas con el empleo aplicadas por la División de Salario y Hora (Wage and Hour Division, WHD por sus siglas en inglés) o la Administración de Salud y Seguridad Ocupacional (Occupational Safety and Health Administration, OSHA por sus siglas en inglés) tienen que ser registradas por escrito por la agencia Estatal y referidas a la oficina apropiada de aplicación para conseguir una resolución. Para querellas de MSFW, el Centro de Recursos Profesionales "One-Stop" local tiene cinco días para tratar de resolver la querella, para las querellas no de MSFWs, se permiten 15 días.

Querellas sobre Discriminación son: Si cree que ha sido sujeto/a a discriminación bajo un programa o actividad asistido/a financieramente por WIOA Título I, puede presentar una querella dentro de 180 días de la fecha de la alegada violación con: el Director de Diversidad de la Oficina Ejecutiva de Trabajo y Desarrollo de la Fuerza Laboral (Executive Office of Labor and Workforce Development, EOLWD por sus siglas en inglés) o el Director del Centro de Derechos Civiles del Departamento Estadounidense de Trabajo (United States Department of Labor, USDOL por sus siglas en inglés).

PROCESO DE AUDIENCIA/APELACIÓN

Los oficiales estatales o locales de Querellas/Qué pasa después de que Usted presente su querella ...

1. El Oficial de Querellas (Complaint Officer, CO por sus siglas en inglés) determinará si la querella corresponde a nuestra jurisdicción.
 - Si no corresponde a nuestra jurisdicción, le notificaremos.
 - Violaciones a OSHA y WHD serán documentadas y referidas a la agencia apropiada de aplicación para conseguir una resolución.
 - Si corresponde a nuestra jurisdicción, puede que realizaremos una investigación administrativa o completa.
2. El Oficial de Querellas (Complaint Officer, CO por sus siglas en inglés) actuará como una tercera parte descubridora de hechos imparcial. Durante la investigación, no le representan ni a usted, ni a nosotros, ni al empleador, ni al proveedor de servicio. Puede que el CO se comunica con usted para información adicional o con la persona contra quien usted presentó su querella para pedir una respuesta, y puede que le dé una copia de su querella. La profundidad de una investigación dependerá de la cantidad actual de casos y la complejidad del caso.
3. Tras recopilar todos los hechos, evaluaremos la información y tomaremos una determinación.
4. Le notificaremos del resultado de su querella.
5. En la respuesta, el Oficial de Querellas le proveerá información detallada sobre el proceso de entrega de apelaciones o de cómo solicitar una audiencia.

CÓMO PRESENTAR UNA QUERELLA

Re llene el Record de Querellas/Referencias del Centro de Recursos Profesionales "One-Stop" (One-Stop Career Center, OSCC por sus siglas en inglés) e incluya todo lo siguiente:

1. Copias de todos los documentos relacionados con su querella.

Attachment H

STATE APPEALS AND HEARINGS PROCESSES COVERED UNDER THE "UNIFIED WORKFORCE DEVELOPMENT SYSTEM COMPLAINT AND APPEALS PROCESS" POLICY

This policy covers appeals processes that may arise in the delivery and/or administration of services and activities provided or undertaken locally by direct recipients of WIOA Title I or Wagner-Peyser funds.

More specifically, appeals that fall within the jurisdiction of this policy include:

- I. Appeal of Local Determinations**
- II. Appeal of Denial or Termination of Eligibility as Training Provider**
- III. Appeal of Governor/State Board decision of initial or subsequent non-designation of Local Workforce Development Area**
- IV. Appeal of One-Stop Infrastructure Amount Designated by the State Under State Infrastructure Funding Mechanism**
- V. Appeal of Local Workforce Board Competitive Selection of Local One-Stop Operator/Service Provider**

I. STATE LEVEL APPEAL/HEARING RELATED TO LOCAL COMPLAINT DETERMINATION

If a local CO determination issued to the complainant *does not* resolve the complaint to the satisfaction of the complainant, the complainant may request an *appeal* and/or a formal *appeal hearing* within 20 days of receipt of the determination.

The request for appeal and/or formal appeal hearing must be sent to:

Office of Director
Department of Career Services
Charles F. Hurley Building
19 Staniford Street 1st Floor
Boston, MA 02114

At the State level, WIOA requires an opportunity for an informal resolution and/or hearing to be completed within 60 days of the filing. If the State does not respond within the 60 days, or either party wants to appeal, WIOA allows for a formal appeal to the U.S. Department of Labor (DOL). Federal appeals must be made within 60 days of the receipt of the decision being appealed.

NOTE: *If the State Complaint Officer has made a written request for information to the appellant or the appellant's authorized representative, and they do not respond within the given time frame (40 days for Migrant Seasonal Farm Worker (MSFW) related / 20 days for non-MSFW related), the complaint is considered resolved.*

Attachment H

Formal Hearing Process

If the State Complaint Officer deems that a formal hearing is necessary or if the complainant/appellant specifically requests such a hearing, the State Complaint Officer will notify the parties (in writing) that the matter has been scheduled for a formal hearing. The notice must inform the parties of the following conditions of the hearing process:

- The date, time and location of the hearing.
- Instruction that the State Hearing Official (State Complaint Officer or other, duly authorized State Official) will conduct and regulate the course of the hearing to ensure full consideration of all relevant issues and that actions necessary to ensure an orderly hearing are followed.
- Instruction that the State Hearing Official must rule on the introduction of evidence* and afford the parties the opportunity to present, examine, and cross-examine witnesses.

* For clarity it must be noted that an administrative hearing is not the same as a Court of Law. Technical rules of evidence *do not apply*. It is up to the State Hearing Official to follow principles and procedures that are designed to assure credible evidence that can be tested through cross-examination.

In conjunction with the hearing process the State Hearing Official:

- May decide to make a determination based on the information included in the case file or investigate further prior to the formal hearing.
- May decide to conduct a hearing on more than one complaint/appeal if the issues are related.
- May permit (at his/her discretion) the participation of interested parties (*amicus curiae*) with respect to specific legal or factual issues relevant to the complaint/appeal.
- May choose to conduct the hearing at a single location convenient to all parties (preferred) or, if that represents a hardship for one or more parties, the State Hearing Official may elect to conduct the hearing by a telephone conference call.
- Must conduct the hearing *and* issue a written determination to the appellant, the respondent and any other participating interested parties within the 30 day from the date the hearing was requested (or in the case of a complaint brought by an MSFW – within 20 days) from the date the hearing was requested. The State Hearing Official's written determination must include:
 - ✓ the results of the State level investigation;
 - ✓ conclusions reached on the allegations;
 - ✓ an explanation regarding the determination;
 - ✓ if the complaint is against an employer and the State level investigation has found that the employer violated Wagner-Peyser regulations; a statement that the Commonwealth will initiate procedures for discontinuation of services to the employer in accordance with the appropriate regulations (§658.500 - §658.504);
 - ✓ an offer to the appellant to request a hearing within 20 working days after the certified date of the receipt of the determination if the complaint is against an employer and the

Attachment H

State level investigation has found that the employer has not violated Wagner-Peyser regulations; and/or

- ✓ an offer to the appellant to request a hearing within 20 working days after the certified date of the receipt of the notification if the complaint is against a State agency, and a violation by the agency is not determined.

The State Hearing Official's determination must also inform the complainant/appellant and respondent that both have the right to appeal the Hearing Official's determination to the U.S. Department of Labor Employment and Training Administration (USDOL ETA). The appeal must be submitted to USDOL ETA within 60 days of the receipt of the state's determination. All appeals must be submitted in writing by certified mail; return receipt requested, to the Secretary, US Department of Labor, Attention: ASET. A copy of the appeal must be simultaneously provided to USDOL ETA Boston Regional 1 Office and to the opposing party or parties. USDOL must make a final determination no later than 120 days after receiving the appeal.

U.S. Department of Labor
Employment and Training Administration
200 Constitution Ave, NW
Washington, DC 20210
Attention: ASET

Employment & Training Administration
U.S. Department of Labor
JFK Building, Room 350
Boston, MA 02203

II. STATE LEVEL APPEAL/HEARING PROCESS RELATED TO DENIAL OR TERMINATION OF ELIGIBILITY AS A TRAINING PROVIDER

If, after having applied to become an eligible training provider pursuant to WIOA Section 122, an entity is not selected, said entity may appeal the decision to the State Complaint Officer. The appellant must request the state-level appeal and/or formal appeal hearing in writing within 20 days of receiving the adverse determination (see attachment I). The request for appeal and/or formal appeal hearing must be sent to:

Office of Director
Massachusetts Workforce Development Board
Charles F. Hurley Building
19 Staniford Street 4th Floor
Boston, MA 02114

If the appellant chooses to request an appeal *without specifically requesting a hearing*, the State Complaint Officer may decide to either make a determination based solely on the information included in the case file or conduct further investigation and issue a written determination without scheduling a formal hearing. In either case, the State Complaint Officer must submit a written determination to the appellant **within 30 days** of receipt of the original appeal request or after having received additional information from further investigation (unless the State Complaint Officer deems a formal hearing to be necessary as described below).

Attachment H

NOTE: *If the State Complaint Officer has made a written request for information to the appellant or the appellant's authorized representative, they do not respond within the given time frame the appeal is considered resolved.*

Formal Hearing Process

If the State Complaint Officer deems that a formal hearing is necessary or if the appellant specifically requests such a hearing, the State Complaint Officer will notify the parties (in writing) that the matter has been scheduled for a formal hearing. The notice must inform the parties of the following conditions of the hearing process:

- The date, time and location of the hearing.
- Instruction that the State Hearing Official (State Complaint Officer or other, duly authorized State Official) will conduct and regulate the course of the hearing to assure full consideration of all relevant issues and that actions necessary to ensure an orderly hearing are followed.
- Instruction that the State Hearing Official must rule on the introduction of evidence* and afford the parties the opportunity to present, examine, and cross-examine witnesses.

* For clarity it must be noted that an administrative hearing is not the same as a Court of Law. Technical rules of evidence *do not apply*. It is up to the State Hearing Official to follow principles and procedures that are designed to assure credible evidence that can be tested through cross-examination.

In conjunction with the hearing process the State Hearing Official:

- May decide to make a determination based on the information included in the case file or investigate further prior to the formal hearing.
- May decide to conduct a hearing on more than one appeal if the issues are related.
- May permit (at his/her discretion) the participation of interested parties (*amicus curae*) with respect to specific legal or factual issues relevant to the appeal.
- May choose to conduct the hearing at a single location convenient to all parties (preferred) or, if that would represent a hardship for one or more parties, the State Hearing Official may elect to conduct the hearing by a telephone conference call.
- Must conduct the hearing *and* issue a written determination to the appellant, the respondent and any other participating interested parties within the **30 days** from the date the hearing was requested. The State Hearing Official's written determination must include:
 - ✓ the results of the State level investigation;
 - ✓ conclusions reached on the appeal;
 - ✓ an explanation as to why the appeal was upheld or not upheld.

A decision under this state appeal process is final and **may not** be appealed to the U.S. Secretary of Labor. 20 CFR 683.630(b)(3).

Attachment H

III. APPEAL OF NON-DESIGNATION OF INITIAL OR SUBSEQUENT LOCAL WORKFORCE DEVELOPMENT AREA

A unit of general local government (including a combination of such units) or grant recipient that requests but is not granted initial or subsequent designation as a Local Workforce Development area under WIOA Section 106(b), paragraph (2) or (3) may submit an appeal to the State Board.

The appellant must establish that it was not accorded procedural rights under the appeal process set forth in the State Plan, or establish that it meets the requirements for initial or subsequent designation or in WIOA section 106(b)(2) or 106(b)(3) and 20 CFR679.250.

The appellant may request a state-level appeal and/or formal appeal hearing in writing within **20 days** of receiving the denial of initial or subsequent designation as Local Workforce Development Area.

The request for appeal and/or formal appeal hearing must be sent to:

Office of Director
Massachusetts Workforce Development Board
Charles F. Hurley Building
19 Staniford Street 4th Floor
Boston, MA 02114

If the appellant chooses to request an appeal without specifically requesting an appeal hearing, the State Board or Board Authorized State Official (ASO) may decide to either make a determination based solely on the information included in the case file or conduct further investigation and issue a written determination without scheduling a formal hearing.

In either case, the State Board/ASO must submit a written determination to the appellant within **30 days** of receipt of the original appeal request or **30 days** after having received additional information from further investigation or **30 days** after a formal hearing request.

If the State Board/ASO has made a written request for information to the appellant or the appellant's authorized representative, they do not respond within the given time frame the complaint is considered resolved.

If the State Board/ASO deems that a formal hearing is necessary or if the appellant specifically requests such a hearing, the State Board/ASO will notify the parties (in writing) that the matter has been scheduled for a formal hearing. The notice must inform the parties of the following conditions of the hearing process:

Formal Hearing Process

The notice must inform the parties of the following conditions of the hearing process:

- The date, time and location of the hearing.
- Instruction that the State Board/ASO will conduct and regulate the course of the hearing to assure full consideration of all relevant issues and that actions necessary to ensure an orderly hearing are followed.

Attachment H

- Instruction that the State Board/ASO must rule on the introduction of evidence* and afford the parties the opportunity to present, examine, and cross-examine witnesses.

* For clarity it must be noted that an administrative hearing is not the same as a Court of Law. Technical rules of evidence *do not apply*. It is up to the State Hearing Official to follow principles and procedures that are designed to assure credible evidence that can be tested through cross-examination.

In conjunction with the hearing process the State Board/ASO:

- May decide to make a determination based on the information included in the case file or investigate further prior to the formal hearing.
- May decide to conduct a hearing on more than one appellant if the issues are related.
- May permit (at his/her discretion) the participation of interested parties (*amicus curae*) with respect to specific legal or factual issues relevant to the appeal.
- May choose to conduct the hearing at a single location convenient to all parties (preferred) or, if that would represent a hardship for one or more parties, the State Hearing Official may elect to conduct the hearing by a telephone conference call.
- Must conduct the hearing *and* issue a written determination to the appellant, the respondent and any other participating interested parties within **30 days** from the date the hearing was requested. The State Hearing Official's written determination must include:
 - ✓ the results of the State level investigation;
 - ✓ conclusions reached on the appeal;
 - ✓ an explanation as to why the decision was upheld or not upheld.

A unit of general local government (including a combination of such units) or grant recipient whose appeal or denial of a request for initial or subsequent designation as a Local Workforce Development Area to the State Board/Governor has not resulted in such designation may appeal the State Board's/Governor's denial to U.S. Department of Labor Employment and Training Administration (USDOL ETA). The appeal must be submitted to DOL/ETA within **30 days** of the receipt of written notification of the denial from the State Board/Governor. All appeals must be submitted in writing by certified mail; return receipt requested, to the Secretary, US Department of Labor, Attention: ASET. A copy of the appeal must be simultaneously provided to the State Board. USDOL must submit a written determination to the Governor/State Board and the appellant.

U.S. Department of Labor
Employment and Training Administration
200 Constitution Ave, NW
Washington, DC 20210
Attention: ASET

and

MA Workforce Development Board
Charles F. Hurley Building
19 Staniford Street 4th Floor
Boston, MA 02114
Attention: Director

Attachment H

IV. ONE-STOP PARTNER APPEAL OF ONE-STOP INFRASTRUCTURE AMOUNT DESIGNATED BY STATE UNDER STATE ONE-STOP INFRASTRUCTURE FUNDING MECHANISM

A One-Stop Partner may appeal a One-Stop Infrastructure amount established under the State Infrastructure Funding Mechanism on the basis that the State Board/Governor's determination is inconsistent with proportionate share requirement in 20 CFR 678.735(a), the cost contribution limitation in 20 CFR 678.735(b), or cost contribution caps in 20 CFR 678.735.

The appellant may request a state-level appeal and/or formal appeal hearing in writing within 10 days of the State decision to impose the State One-Stop Infrastructure Funding Mechanism to finalize local Memorandum of Understanding (MOU).

The request for appeal and/or formal appeal hearing must be sent to:

Office of Director
Massachusetts Workforce Development Board
Charles F. Hurley Building
19 Staniford Street 4th Floor
Boston, MA 02114

If the appellant chooses to request an appeal without specifically requesting an appeal hearing, the State Board, or its designee (Authorized State Official - ASO), may decide to either make a determination based solely on the information included in the case file or conduct further investigation and issue a written determination without scheduling a formal hearing.

In either case, the State Board/ASO must submit a written determination to the appellant within 30 days of receipt of the original appeal request or 30 days after having received additional information from further investigation or 30 days after a formal hearing request.

If the State Board/ASO has made a written request for information to the appellant or the appellant's authorized representative, and they do not respond within the given time frame the appeal is considered resolved.

If the State Board/ASO deems that a formal hearing is necessary or if the appellant specifically requests such a hearing, the State Board/ASO will notify the parties (in writing) that the matter has been scheduled for a formal hearing. The notice must inform the parties of the following conditions of the hearing process:

Formal Hearing Process

The notice must inform the parties of the following conditions of the hearing process:

- The date, time and location of the hearing.
- Instruction that the State Board/ASO will conduct and regulate the course of the hearing to assure full consideration of all relevant issues and that actions necessary to ensure an orderly hearing are followed.
- Instruction that the State Board/ASO must rule on the introduction of evidence* and afford the parties the opportunity to present, examine, and cross-examine witnesses.

Attachment H

* For clarity it must be noted that an administrative hearing is not the same as a Court of Law. Technical rules of evidence *do not apply*. It is up to the State Board/ASO to follow principles and procedures that are designed to assure credible evidence that can be tested through cross-examination.

In conjunction with the hearing process the State Board/ASO:

- May decide to make a determination based on the information included in the case file or investigate further prior to the formal hearing.
- May decide to conduct a hearing on more than one appellant if the issues are related.
- May permit (at his/her discretion) the participation of interested parties (*amicus curae*) with respect to specific legal or factual issues relevant to the complaint/appeal.
- May choose to conduct the hearing at a single location convenient to all parties (preferred) or, if that would represent a hardship for one or more parties, the State Hearing Official may elect to conduct the hearing by a telephone conference call.
- Must conduct the hearing *and* issue a written determination to the appellant, the respondent and any other participating interested parties within **30 days** from the date the hearing was requested. The State Board/s/ASO's written determination must include:
 - ✓ the results of the State level investigation;
 - ✓ conclusions reached on the appeal;
 - ✓ an explanation as to why the decision was upheld or not upheld.

A decision under this state appeal process is final and **may not** be appealed to the U.S. Secretary of Labor.

V. APPEAL OF LOCAL WORKFORCE BOARD COMPETITIVE SELECTION OF LOCAL ONE-STOP OPERATOR/SERVICE PROVIDER

An entity that bid and was not selected under a competitive process (as required in WIOA§107(10)(A) and 20CFR 678.605) by the Local Board as Local One-Stop Operator/Service Provider may appeal that determination to the Local Board following local procurement requirements. If the local determination to uphold the denial of the award does not resolve the appeal to the satisfaction of the appellant, the appellant may request a state-level appeal and/or formal appeal hearing in writing within **10 business days** of receiving the denial. The request for appeal and/or formal appeal hearing must be sent to:

Office of Director
Massachusetts Workforce Development Board
Charles F. Hurley Building
19 Staniford Street 4th Floor
Boston, MA 02114

Attachment H

If the appellant chooses to request an appeal without specifically requesting an appeal hearing, the State Board, or its' designee (Authorized State Official - ASO), may decide to either make a determination based solely on the information included in the case file or conduct further investigation and issue a written determination without scheduling a formal hearing.

In either case, the State Board/ASO must submit a written determination to the appellant within **30 days** of receipt of the original appeal request or **30 days** after having received additional information from further investigation or **30 days** after a formal hearing request.

If the State Board/ASO has made a written request for information to the appellant or the appellant's authorized representative, and they do not respond within the given time frame the appeal is considered **resolved**.

If the State Board/ASO deems that a formal hearing is necessary or if the appellant specifically requests such a hearing, the State Board/ASO will notify the parties (in writing) that the matter has been scheduled for a formal hearing. The notice must inform the parties of the following conditions of the hearing process:

Formal Hearing Process

The notice must inform the parties of the following conditions of the hearing process:

- The date, time and location of the hearing.
- Instruction that the State Board/ASO will conduct and regulate the course of the hearing to assure full consideration of all relevant issues and that actions necessary to ensure an orderly hearing are followed.
- Instruction that the State Board/ASO must rule on the introduction of evidence* and afford the parties the opportunity to present, examine, and cross-examine witnesses.

* For clarity it must be noted that an administrative hearing is not the same as a Court of Law. Technical rules of evidence *do not apply*. It is up to the State Board/ASO to follow principles and procedures that are designed to assure credible evidence that can be tested through cross-examination.

In conjunction with the hearing process the State Board/ASO:

- May decide to make a determination based on the information included in the case file or investigate further prior to the formal hearing.
- May decide to conduct a hearing on more than one appellant if the issues are related.
- May permit (at his/her discretion) the participation of interested parties (*amicus curae*) with respect to specific legal or factual issues relevant to the complaint/appeal.
- May choose to conduct the hearing at a single location convenient to all parties (preferred) or, if that would represent a hardship for one or more parties, the State Hearing Official may elect to conduct the hearing by a telephone conference call.
- Must conduct the hearing *and* issue a written determination to the appellant, the respondent and any other participating interested parties within **30 days** from the date the

Attachment H

hearing was requested. The State Board/s/ASO's written determination must include:

- ✓ the results of the State level investigation;
- ✓ conclusions reached on the appeal;
- ✓ an explanation as to why the decision was upheld or not upheld.

A decision under this state appeal process is final and may not be appealed to the U.S. Secretary of Labor.

ATTACHMENT H1

HEARING SCRIPT-OATH-OPENING STATEMENT SAMPLE

Good Morning/Afternoon. Today, _____ we are gathered to consider the case # / of _____.

Please understand that an audio recording of this hearing is being made, as such, please speak loudly and clearly.

My name is _____ and I will be the hearing officer for today's proceedings.

For the purpose of the recording, can everyone please state your name and role in today's hearing.

As this is an administrative hearing, the burden of proof is a preponderance of evidence.

Please remember that behavior, from anyone in attendance today, which threatens to disrupt the orderly progression of the hearing procedure or intimidates or harasses the hearing participants, will not be tolerated.

Anyone who cannot conduct themselves appropriately will be asked to leave and the hearing will proceed without you.

The hearing will proceed as follows:

First, I, as the hearing officer, will present my opening statement about the issue to be heard.

The complainant will then present his statement about the incident and any evidence in support, followed by questions from the hearing officer (if needed).

Then the respondent will present his/her statement (if needed) about the incident and any evidence in support of his/her position, followed by questions from the hearing officer (if needed).

Next any supporting witnesses for the complainant/respondent (if applicable) will give statements and be questioned by the hearing officer, then the complainant, and then the respondent (if needed).

Finally, any remaining questions can then be asked.

The hearing officer will then present his/her closing statement and the hearing will close.

Are there any questions on procedural issues to address before we begin?

ATTACHMENT H2

SAMPLE LOCAL NOTICE OF HEARING

NOTICE OF HEARING

Complainant Name
Complainant Address
City, State Zip Code

Complainant: [name]
Respondent(s): [name], [title]

Hearing Officer: [name], [title]

A hearing is now scheduled:

Location:

Date:

Time:

You will be met in the main lobby of the building at [time] the day of the hearing.

Please Note: If you would like to request a telephone hearing, please email [hearing officer name] at XXX or contact at [telephone #] **by [date]** to coordinate a call in number.

The issue to be heard is whether:

- [issue]

If you have any additional documentation you wish to submit for review please forward to [hearing officer name] at above email address. You may also notify any representatives and/or witnesses that you wish to have present.

This is an Administrative Hearing, the rules of evidence do not apply. However, you have the right to be represented at the hearing by a representative you choose, at your cost. All parties have the right to hear the entire testimony and evidence produced against them; to know the claims or charges against them.

The Hearing Officer may enter a default judgment granting the relief requested against any party who, without just cause, does not appear and argue their case at the scheduled time and place.

Applicable appeal rights and the procedures for doing so will accompany the decision.

Parking: You will find it most convenient to park at [place]. **Directions are enclosed.**

ATTACHMENT H3

SAMPLE LOCAL OFFICE HEARING DETERMINATION

[DATE]

Complainant Name
Complainant Address
Complainant City, State Zip Code

Dear Mr./Ms. XXX:

This correspondence serves as a notice of hearing determination regarding your complaint that was heard on DATE at XXXX am/pm at the XXX Career Center located at CC Address, City, MA Zip Code.

Present at the hearing: XXXXX- Complainant (Attended by telephone/in person)
XXXXX- Respondent
XXXXX- Respondent
XXXXX- Complaint Officer

The Basis of Complaint:

Mr./Ms. XXXXX alleges that:

- XXXXX

In accordance with the procedures related to hearings at 20 CFR DCS 658.417 et seq. and as the deciding official, I have rendered a determination on the above matter.

In order to render this determination I have:

[Additional Items can be added or removed - this is just a SAMPLE]

1. Given full consideration to the oral testimony presented by complainant and respondents during the Hearing conducted on XXXX.
2. Reviewed, (received or obtained) copies of all case notes provided within the Massachusetts One-Stop Employment System (MOSES) database as it applied to service provision to Mr./Ms. XXXXX.
3. Reviewed, (received or obtained) copies of all emails between Mr./Ms. XXXX and XXXXXXXX during the period Month, year- Month, year.
4. Reviewed, (received or obtained) copy of XXXXX correspondence to XXX from Mr./Ms. XXXX filing a complaint.
5. Reviewed, (received or obtained) copy of the [month, year] complaint form including specific complaints from Mr./Ms. XXX.

Testimony

[Additional Items can be added or removed-this is just a SAMPLE]

Mr./Ms. XXX stated that
Mr./Ms. XXX testified that
Mr./Ms. XXX ...

EXAMPLES:

Mr./Ms. XXX was asked if he had questions for XXX but he did or did not have questions.

Conclusion

It was disclosed during testimony by all parties that Mr./Ms. XXX had/had not XXX provided XXXXX.

It was also disclosed during testimony that

Determination

The XXX Central Career Center has rendered a determination on this matter.

The available evidence and the testimony provided on DATE demonstrated that XXX.

Based on my review of the available documentation and the testimony, I have determined that XXXXX.

Please note that either party to this complaint, namely the complainant, you, Mr./Ms. XXX or the respondents, XXX and XXX may file an appeal with the Department of Career Services, in writing, within 20 business days of receipt of this determination.

The appeal should be sent to:

Jose Ocasio, DCS Complaint Officer
Department of Career Services
19 Staniford Street, 1st Floor
Boston, MA 02114

Sincerely,

XXX
Career Center Name, Complaint Officer

Attachment I

Training Provider Appeal Form

This status of the denial will become final unless you request an appeal within 20 days of receiving the adverse determination.

The appeal will be reviewed via the Unified Workforce Development System Complaint and Appeals Process (see Issuance 100 DCS 03.101.1). Please send the appeal to:

Complaint Office
Department of Career Services
19 Staniford Street, 1st Floor
Boston, MA 02114

REQUEST TO APPEAL

Training Provider Name:	
FEIN:	TrainingPro ID #:
Contact Information:	
Name:	Title:
Email:	Telephone:
(please enter reason for appeal...)	
Print Name:	Title:
Signature:	Date:

Attachment J

Federal Contractor Statutes and Complaint Contact Information

Generally, Federal Contractor(s) job information and listings of jobs is available to job seekers through the One-Stop Career Center System. Staff designated to assist customers should be familiar with the procedures to address any complaint generated as a result of referrals to any of the job opportunities advertised.

Recipients of government contracts, grants or financial aid are subject to wage, hour, benefits, and safety and health standards under a variety of federal statutes:

- **The Davis-Bacon Act** - Requires payment of prevailing wages and benefits to employees of contractors engaged in federal government construction projects;
- **The McNamara-O'Hara Service Contract Act** - Sets wage rates and other labor standards for employees of contractors furnishing services to the federal government;
- **The Walsh-Healey Public Contracts Act** - Requires payment of minimum wages and other labor standards by contractors providing materials and supplies to the federal government;
- **Contract Work Hours and Safety Standards Act (CWHSSA)** - Requires contractors and subcontractors with covered contracts to pay laborers and mechanics employed in the performance of the contracts one and one-half times their basic rate of pay for all hours worked over 40 in a workweek;
- **The Copeland "Anti-Kickback" Act** - Precludes a contractor or subcontractor from in any way inducing an employee to give up any part of the compensation to which he or she is entitled under his or her contract of employment.

Enforcement Agencies

For complaints specific to wages, hours and/or benefits contact the U.S. Department of Labor Wage and Hour Division (WHD):

U.S Dept. of Labor
Wage and Hour Division
Boston District Office
John F. Kennedy Federal Building, Room 526
Boston, MA 02203

Phone: 617-624-6700
1-866-4-USWAGE (1-866-487-9243)

For health and safety issues related to McNamara-O'Hara Service Contract Act (SCA) contact the U.S. Dept. of Labor Occupational Safety & Health Administration (OSHA):

Attachment J

Complaint Filing Options

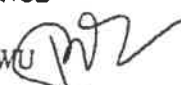
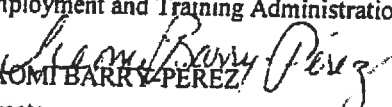
You have these options to file your safety and health complaint:

1. Online - Go to the Online Complaint Form - Written complaints that are signed by workers or their representative and submitted to an OSHA Area or Regional Office are more likely to result in onsite OSHA inspections. Complaints received on line from workers in OSHA-approved state plan states will be forwarded to the appropriate state plan for response.
2. Download and Fax/Mail - Download the OSHA complaint form (or request a copy from your local OSHA Regional or Area Office), complete it and then fax or mail it back to your local OSHA Regional or Area Office. Written complaints that are signed by a worker or representative and submitted to the closest OSHA Area Office are more likely to result in onsite OSHA inspections. Please include your name, address and telephone number so we can contact you to follow up. This information is confidential.
3. Telephone - Call your local OSHA Regional or Area Office. OSHA staff can discuss your complaint and respond to any questions you have. If there is an emergency or the hazard is immediately life-threatening, call your local OSHA Regional or Area Office or 1-800-321-OSHA.

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION LGBT
	CORRESPONDENCE SYMBOL OWI-OPDR
	DATE May 29, 2015

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 37-14

TO: ONE-STOP CAREER CENTERS (currently branded as AMERICAN JOB CENTERS)
 STATE WORKFORCE AGENCIES
 STATE WORKFORCE ADMINISTRATORS
 STATE WORKFORCE LIAISONS
 STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS
 STATE AND LOCAL EQUAL OPPORTUNITY OFFICERS
 STATE LABOR COMMISSIONERS
 WORKFORCE INNOVATION AND OPPORTUNITY ACT SECTION 166 INDIAN AND NATIVE AMERICAN GRANTEES
 WORKFORCE INNOVATION AND OPPORTUNITY ACT SECTION 167 MIGRANT AND SEASONAL FARMWORKER JOBS PROGRAM GRANTEES
 SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM GRANTEES
 JOB CORPS CONTRACTORS
 RECIPIENTS OF DEPARTMENT OF LABOR FINANCIAL ASSISTANCE
 SUB-RECIPIENTS OF DEPARTMENT OF LABOR FINANCIAL ASSISTANCE

FROM: PORTIA WU 
 Assistant Secretary
 Employment and Training Administration
 NAOMI BARRY PEREZ 
 Director
 Civil Rights Center

SUBJECT: Update on Complying with Nondiscrimination Requirements:
 Discrimination Based on Gender Identity, Gender Expression and Sex Stereotyping are Prohibited Forms of Sex Discrimination in the Workforce Development System

RESCISSIONS None	EXPIRATION DATE Continuing
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1. **Purpose.** The purpose of this Training and Employment Guidance Letter (TEGL) is to provide information to the public workforce system and other entities (including the “covered entities” listed in the “To” line above) that receive federal financial assistance under Title I of the Workforce Investment Act (WIA) and that will begin implementing Title I of the Workforce Innovation and Opportunity Act (WIOA) on July 1, 2015, as well as education and training programs or activities receiving Department of Labor financial assistance, regarding the prohibitions on discrimination based on gender identity, gender expression, and sex stereotyping. Lesbian, gay, bisexual and transgender (LGBT) individuals experience unemployment and employment discrimination at significantly higher rates compared to the rest of the American population, making it particularly important that they have full access to the services provided by the public workforce system, to help overcome the employment-related barriers they encounter.¹ This TEGI, and related attachments explain the legal authority for these obligations, give some examples of prohibited discrimination, and suggest ways to prevent, identify, and address discrimination.
2. **References.** The nondiscrimination provisions that apply to the public workforce system prohibit discrimination on the basis of sex, among other bases. These provisions prohibit intentional discrimination as well as actions, policies or practices, which, though neutral on their face, have a disproportionate impact on a protected class and cannot be justified as job related and consistent with business necessity. Although gender identity is not an explicitly protected basis under the applicable federal laws, discrimination based upon gender identity, gender expression, and sex stereotyping has been interpreted to be a form of prohibited sex discrimination, including under laws that apply to federally financially assisted employment, training, and education programs and activities.
 - a. **The Workforce Investment Act (WIA)**, 29 U.S.C. 2801 et seq., is the key source of federal assistance for state and local workforce development activities. Section 188 of the Workforce Innovation and Opportunity Act (WIOA) retains the same non-discrimination provisions currently found in Section 188 of WIA, and as the workforce system transitions to operations under this new law, this guidance will remain in effect. The relevant nondiscrimination provision in WIA states that no “individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity” on the basis of race, color, religion, sex, national origin, age, disability, or political affiliation or belief, among other bases. 29 U.S.C. 2938(a)(2). The regulations implementing this provision, administered and enforced by the Department of Labor’s Civil Rights Center (CRC), apply to all programs and activities that are operated by One-Stop partners as part of the One-Stop delivery system. 29 C.F.R. 37.2(a)(2). Similarly,

¹ See, e.g., *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*. National Center for Transgender Equality, National Gay and Lesbian Task Force (2011), available at <http://endtransdiscrimination.org/report.html>; Documented Evidence of Employment Discrimination & Its Effects on LGBT People, The Williams Institute. (2011), available at <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Sears-Mallory-Discrimination-July-2011.pdf>.

under the Wagner-Peyser Act regulations, states are required to assure nondiscrimination regarding any services or activities authorized under that Act. 20 C.F.R. 652.8(j)(1).

The WIA nondiscrimination regulations prohibit recipients from using any method that has the purpose or effect of subjecting individuals to discrimination on a prohibited ground due to the recipient's administration of programs providing aid, benefits, services, training, or facilities. 29 C.F.R. 37.6. In addition, the Wagner-Peyser Act regulations specifically require states to "[a]ssure that discriminatory job orders will not be accepted, except where the stated requirement is a bona fide occupational qualification (BFOQ)." 20 C.F.R. 652.8(j)(2).

The CRC, which is charged with enforcing Section 188 of WIA² and its implementing regulations, interprets the prohibition against sex discrimination consistent with the U.S. Equal Employment Opportunity Commission's interpretation of sex discrimination under Title VII of the Civil Rights Act of 1964 and the U.S. Department of Education's interpretation of sex discrimination under Title IX of the Education Amendments of 1972, as described below.³ These nondiscrimination obligations apply to recipients of WIA Title I funding and programs and activities that are part of the public workforce system and are operated by One-Stop (also known as American Job Centers) partners, to the extent the programs are being conducted as part of the One-Stop delivery system.

- b. Title VII of the Civil Rights Act of 1964, as amended (Title VII), 42 U.S.C. 2000e et seq., prohibits employment discrimination based on race, color, religion, sex, and national origin. Entities within the public workforce system, such as the State Workforce Agencies and One-Stop Career Centers (currently branded as American Job Centers), may be regarded as "employment agencies" under Title VII.⁴ Title VII prohibits employment agencies from failing or refusing to refer an individual for employment or otherwise to discriminate against any individual based on race, color, religion, sex, or

² This document refers to Section 188 of WIA. Section 188 of Workforce Innovation and Opportunity Act (WIOA) was signed into law on July 22, 2014 and it supersedes Section 188 of WIA. In general, WIOA takes effect on July 1, 2015, which is the first full program year after it was enacted. Enactment of WIOA in no way changes the nondiscrimination and equal opportunity obligations discussed in this TEGL.

³ See, e.g., 29 CFR 37.10(c) ("In any investigation or compliance review, the [CRC] Director must consider . . . EEOC regulations, guidance and appropriate case law in determining whether a recipient has engaged in an unlawful employment practice"); 29 CFR 37.13 ("The [CRC] Director will make any rulings under, or interpretations of, the nondiscrimination and equal opportunity provisions of WIA or [29 CFR part 37]").

⁴ See 42 U.S.C. 2000e(c) (defining "employment agency" as "any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer"); EEOC Decision No. N-917.002, 1991 WL 11665181, at *1-2 & n.1 (Sept. 20, 1991). EEOC COMPLIANCE MANUAL, SEC. 2, THRESHOLD ISSUES, at 2-III.B.1.b (rev. 2000), available at <http://www.eeoc.gov/policy/docs/threshold.html>; EEOC POLICY GUIDANCE, NO. N-917.002, WHAT CONSTITUTES AN EMPLOYMENT AGENCY UNDER TITLE VII, HOW SHOULD CHARGES AGAINST EMPLOYMENT AGENCIES BE INVESTIGATED, AND WHAT REMEDIES CAN BE OBTAINED FOR EMPLOYMENT AGENCY VIOLATIONS OF THE ACT? available at 1991 WL 11665181, at *1-2 & n.1 (Sept. 20, 1991). See, however, 47 U.S.C. 230, which may shield Internet-based Job Banks from civil liability for posting content created by third parties.

national origin. 42 U.S.C. 2000e-2(b).⁵ The U.S. Equal Employment Opportunity Commission (EEOC), the Federal agency with lead responsibility for interpreting Title VII, has issued a number of decisions concluding that LGBT individuals may have claims for sex discrimination when they allege discrimination involving sex-stereotypes and gender norms.⁶ These decisions relied, in part, on a previous decision of the U.S. Supreme Court that held discrimination based on an individual's perceived or actual failure to conform with stereotypical gender norms constitutes discrimination because of sex within the meaning of Title VII.⁷ In addition, several federal courts and the EEOC have held that discrimination against an individual because that person is transgender (also known as gender identity discrimination) may be discrimination because of sex.⁸

- c. Title IX of the Education Amendments of 1972, as amended (Title IX), 20 U.S.C. 1681 prohibits discrimination on the basis of sex under any education program or activity receiving federal financial assistance. The U.S. Department of Education, which is the agency that takes the lead on enforcing Title IX, has interpreted Title IX's prohibition against discrimination on the basis of sex as including both sex stereotyping and gender identity.⁹ As many entities within the public workforce system are federally-funded education programs and activities, this interpretation also applies to these programs.
- d. Protection Under State or Local Laws. Many state and local laws explicitly prohibit discrimination based on sexual orientation or gender identity, along with other types of discrimination. As of the date of this Guidance and according to the Human Rights Campaign (www.hrc.org/state_maps), 22 states and the District of Columbia prohibit employment discrimination based on sexual orientation, with a majority of those States also extending protection based on gender identity. An additional 12 states offer protections for sexual orientation or gender identity in the public sector. The regulations

⁵ The Office of Federal Contract Compliance Programs (OFCCP) administers Executive Order 11246, which prohibits covered federal contractors, federally-assisted construction contractors, and covered subcontractors from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin. See Executive Order 11246, as amended. OFCCP enforces the nondiscrimination requirements of Executive Order 11246 in accordance with Title VII. The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA), which requires covered federal government contractors to post certain categories of job announcements in the state workforce agency job bank or with American Job Centers, also is administered and enforced by OFCCP. See 38 U.S.C. 4212(a)(2). Nothing in this TEGL is inconsistent with the obligations of federal contractors and subcontractors under Executive Order 11246, as amended, Section 503 of the Rehabilitation Act, as amended, and 38 U.S.C. Section 4212, the Vietnam Era Veterans' Readjustment Assistance Act, as amended.

⁶ See Article, *What you Should Know about EEOC and the Enforcement Protections for LGBT Workers*, issued November 5, 2014, available at

http://www.eeoc.gov/eeoc/newsroom/whsk/enforcement_protections_lgbt_workers.cfm.

⁷ *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989).

⁸ See, *supra*, *What You Should Know about EEOC and the Enforcement Protections for LGBT Workers* (discussing EEOC cases); *Glenn v. Brumby*, 663 F.3d 1312 (11th Cir. 2011); *Smith v. City of Salem*, 378 F.3d 566, 574 (6th Cir. 2004); *Schroer v. Billington*, 577 F. Supp.2d 293 (D.D.C. 2008).

⁹ U.S. Department of Education, Office of Civil Rights, "Questions and Answers on Title IX and Sexual Violence" at 5, available at <http://www2.ed.gov/about/offices/list/ocr/docs/qa-2014-04-title-ix.pdf>; U.S. Department of Education, Office of Civil Rights, "Questions and Answers on Title IX and Single-Sex Elementary and Secondary Classes and Extracurricular Activities," at 25, Dec. 1, 2014, available at

<http://www2.ed.gov/about/offices/list/ocr/docs/faqs-title-ix-single-sex-201412.pdf>.

implementing WIA Section 188 state that they “do not preempt consistent State and local requirements.” Therefore, state or local laws that provide greater protections on the basis of sexual orientation or gender identity than WIA Section 188, 29 CFR part 37, and the other Federal civil rights laws mentioned herein are fully consistent with those Federal legal provisions.

3. **Action Requested.** One-stop centers should ensure that they are providing equal access to services. As such, DOL is requesting that one-stop centers and other entities in the public workforce system take the following actions.
 - a. One-stop centers and other entities in the public workforce system should use Attachment 2 when reviewing their existing policies and procedures and make any changes necessary to implement the guidance discussed in this directive.
 - b. Workforce System staff should familiarize themselves with Attachment 1, “Key Terminology for Working with Lesbian, Gay, Bisexual, and Transgender Persons.” Understanding and using this terminology can facilitate more effective communication with LGBT customers and employees of the workforce system.
 - c. Equal Opportunity (EO) Officers should carefully investigate complaints by customers or employees alleging gender identity or sex stereotyping discrimination to determine whether discrimination has occurred on the basis of sex, as discussed in Attachment 2.
 - d. Where State or local laws explicitly bar discrimination based on gender identity and/or sex stereotyping, EO Officers should advise customers or employees that additional State and local laws may also cover their claims, and how to file a complaint.
4. **Inquiries.** Inquiries about civil rights issues in the public workforce system should be addressed to CRC, by phone at 202-693-6500 (voice); by relay at 800-877-8339 (TTY/IDD); or by e-mail at CivilRightsCenter@dol.gov. Complaints alleging discrimination by entities in the system may be filed with CRC by postal mail, e-mail, or fax, addressed to Director, Civil Rights Center, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-4123, Washington, DC 20210, CRCExternalComplaints@dol.gov, 202-693-6505 (fax). Further information about the discrimination complaint process is available on CRC’s website at <http://www.dol.gov/oasam/programs/crc/external-enforce-complaints.htm>.

5. **Attachments.**

Attachment 1: Key Terminology for Working with Lesbian, Gay, Bisexual, and Transgender Persons

Attachment 2: Further Guidance Regarding Forms of Sex Discrimination Against LGBT Individuals

Attachment I

Key Terminology for Working with Lesbian, Gay, Bisexual, and Transgender Persons

Sex: A characteristic assigned at birth based on a combination of an infant's biological characteristics.

Gender: Socially constructed roles, behaviors, activities, and attributes that a given society considers appropriate for men and women.¹⁰

Sexual Orientation: An individual's physical, romantic, and/or emotional attraction to people of the same and/or opposite gender. Examples of sexual orientation include straight (or heterosexual), lesbian, gay, and bisexual.

Gender Identity: A term that refers to one's internal sense of one's own gender. It may or may not correspond to the sex assigned to a person at birth, and may or may not be made visible to others.

Gender Expression: A term that refers to how a person represents or expresses one's gender identity to others, often through behavior, clothing, hairstyles, voice, and/or body characteristics.

Gender non-conforming: Refers to individuals whose gender expression is different from societal expectations related to gender.

Transgender: A term that refers to people whose gender identity, expression, or behavior is different from that typically associated with their assigned sex at birth. Transgender is a broad term and an acceptable descriptive term for non-transgender people to use. "Trans" is shorthand for "transgender." (Note: "Transgender" is correctly used as an adjective, not as a noun; thus "transgender people" is appropriate, but "transgenders" is often viewed as disrespectful.)

Transgender woman: A term that refers to a person whose assigned sex at birth was male but whose gender identity is female.

Transgender man: A term that refers to a person whose assigned sex at birth was female but whose gender identity is male.

Transitioning: A term that refers to the time when a person begins living as the gender with which they identify rather than the gender they were assigned at birth, which often includes changing one's first name and dressing and grooming differently. Transitioning may or may not also include medical and legal aspects, such as taking hormones, having surgery, or changing identity documents (e.g., driver's license, Social Security record) to reflect one's gender identity. Medical and legal steps may be very costly and sometimes unaffordable.

¹⁰ World Health Organization, available at <http://www.who.int/gender/whatisgender/en/index.html>.

Sex reassignment surgery: A term that refers to surgical procedures that change one's body to better reflect a person's gender identity. Contrary to popular belief, there is not one surgery; in fact there are many different surgeries. These surgeries are medically necessary for some people; however, not all people want, need, or can have surgery as part of their transition. "Sex change surgery" is considered a derogatory term by many.¹¹

¹¹ National Center for Transgender Equality, *Transgender Terminology* (2014), available at <http://transequality.org/issues/resources/transgender-terminology>.

Attachment 2

Further Guidance Regarding Forms of Sex Discrimination Against LGBT Individuals

Entities in the public workforce systems are prohibited from discriminating on the basis of sex based stereotypes, including stereotypes about how persons of a particular sex are expected to look, speak, or act. Examples of unlawful discrimination include, but are not limited to, the following practices:

- Denial of access to, or otherwise subjecting the individual to adverse treatment in accessing aid, benefits, services, or training, under a WIA/WIOA Title I-financially assisted program or activity because of that individual's failure to comply with gender norms and expectations for dress, appearance and/or behavior, including wearing jewelry, make-up, high-heeled shoes, suits, or neckties.
- Treating an individual adversely because the individual identifies with or is perceived to identify with a gender different from the individual's sex assigned at birth, or the individual has undergone, is undergoing, or is planning to undergo, sex reassignment surgery or other processes or procedures designed to facilitate the adoption of a sex or gender other than the individual's assigned sex at birth.
- Subjecting or otherwise permitting an individual to be subjected to adverse action or harassment and/or physical threats following disclosure that the individual was going to marry a same-sex partner or otherwise not conform to society's sex-role expectations by being in a relationship with a person of the same sex.
- Subjecting an individual to harassment in the form of "homophobic gestures," "homosexual mannerisms," and verbal mocking using "very feminine or very masculine voices."
- Denying transgender employees access to the bathrooms used by the gender with which they identify.

Protection of Transgender Persons

Because of persistent employment discrimination against transgender persons,¹² it may be more difficult for workforce system customers who are transgender to find jobs. To that end, and in

¹² See, e.g., Injustice at Every Turn: A Report of the National Transgender Discrimination Survey, National Center for Transgender Equality, National Gay and Lesbian Task Force (2011), available at <http://endtransdiscrimination.org/report.html>; Documented Evidence of Employment Discrimination & Its Effects on LGBT People, The Williams Institute, (2011), available at <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Sears-Mallory-Discrimination-July-2011.pdf>.

keeping with WIA non-discrimination regulations,¹³ transgender customers cannot be denied access to workforce and training programs due to their gender identity. The customer should not be counseled to change their gender presentation in order to find work. The following should be considered when providing services:

- ***Names and Pronouns.*** Always to refer to each person by the name, and the gender-specific pronoun (for example, he, his, him or she, hers, her), by which the person wants to be called. If staff does not know an individual's pronoun preference, they should ask in a tactful way. Continued intentional misuse of the person's name and pronouns may breach the person's privacy, may put the person at risk of harm, and in some circumstances, may be considered harassment.
- ***Identification documentation.*** Transgender people may have mismatched identification documentation (i.e., "old" identification with a previous name and/or gender marker and "new" identification with corrected name and/or gender marker). This situation occurs because obtaining corrected identification documentation as a result of gender transition is a complex legal process that may take a significant amount of time and other resources. Such discrepancies should not prevent a transgender person from getting a job, participating in a program, or receiving services. If a situation in which discrepancies in personal identification pose legitimate obstacles is encountered, staff should explain what documentation must be provided (e.g., proof of a court-ordered name change).
- ***Restroom access.*** All customers and employees must be able to access restrooms consistent with their gender identities. The decision as to which restroom to use should be left to the individual to determine the most appropriate and safest option for them. Restricting customers and employees to using only restrooms that are not consistent with their gender identity, or segregating them from other workers by requiring them to use gender-neutral or other specific restrooms, singles those individuals out and may make them fear for their physical safety. Bathroom restrictions can result in customers and employees avoiding using restrooms entirely while at work, which can lead to potentially serious physical injury or illness.
- ***Confidential Medical Information.*** Information about a person's status as transgender may be considered medical information, and thus should be kept strictly confidential.¹⁴

¹³ 29 CFR 37.16(c) (stating that "[a] recipient must not exclude any individual from, or restrict any individual's participation in, any program or activity based on the recipient's belief or concern that the individual will encounter limited future employment opportunities" on the basis of a protected characteristic, including sex).

¹⁴ See 45 CFR 160; 45 CFR 164.

Attachment L

COMPLAINT SYSTEM DEFINITIONS

Definitions of terms used in this part and parts 652, 653, 654, and 658

In addition to the definitions set forth in sec. 3 of WIOA, the following definitions apply to the regulations in parts 652, 653, 654, and 658:

Act means the Wagner-Peyser Act (codified at 29 U.S.C. 49 et seq.).

Administrator, Office of Workforce Investment (OWI Administrator) means the chief official of the Office of Workforce Investment (OWI) or the Administrator's designee.

Affirmative action means positive, result-oriented action imposed on or assumed by an employer pursuant to legislation, court order, consent decree, directive of a fair employment practice authority, government contract, grant or loan, or voluntary affirmative action plan adopted pursuant to the affirmative action guidelines of the Equal Employment Opportunity Commission (see 29 CFR part 1608) to provide equal employment opportunities for members of a specified group which for reasons of past custom, historical practice, or other non-occupationally valid purposes has been discouraged from entering certain occupational fields.

Agricultural employer means any employer as defined in this part who owns or operates a farm, ranch, processing establishment, cannery, gin, packing shed or nursery, or who produces or conditions seed, and who either recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal farmworker or any agricultural employer as described in 29 U.S.C. 1802(2).

Agricultural worker see Farmworker.

Applicant holding office means a Wagner-Peyser Act Employment Service (ES) office that is in receipt of a clearance order and has access to U.S. workers who may be willing and available to perform farmwork on a less than year-round basis.

Applicant Holding State means a State Workforce Agency that is in receipt of a clearance order from another State and potentially has U.S. workers who may be willing and available to perform farmwork on a less than year-round basis.

Bona fide occupational qualification (BFOQ) means that an employment decision or request based on age, sex, national origin or religion is based on a finding that such characteristic is necessary to the individual's ability to perform the job in question. Since a BFOQ is an exception to the general prohibition against discrimination on the basis of age, sex, national origin, or religion, it must be interpreted narrowly in accordance with the Equal Employment Opportunity Commission regulations set forth at 29 CFR parts 1604, 1605, and 1627.

Career services means the services described in sec. 134(c)(2) of the Workforce Innovation and Opportunity Act (WIOA) and §678.430 of this chapter.

Attachment L

Clearance order means a job order that is processed through the clearance system under the Agricultural Recruitment System (ARS).

Clearance system means the orderly movement of U.S. job seekers as they are referred through the employment placement process by an ES office. This includes joint action of local ES offices in different labor market areas and/or States.

Complainant means the individual, employer, organization, association, or other entity filing a complaint.

Complaint means a representation made or referred to a State or ES office of an alleged violation of the ES regulations and/or other Federal laws enforced by the Department's Wage and Hour Division (WHD) or Occupational Safety and Health Administration (OSHA), as well as other Federal, State, or local agencies enforcing employment-related law.

Decertification means the rescission by the Secretary of the year-end certification made under sec. 7 of the Wagner-Peyser Act to the Secretary of the Treasury that the State agency may receive funds authorized by the Wagner-Peyser Act.

Department means the United States Department of Labor, including its agencies and organizational units.

Employer means a person, firm, corporation, or other association or organization which currently has a location within the United States to which U.S. workers may be referred for employment, and which proposes to employ a worker at a place within the United States and which has an employer relationship with respect to employees under this subpart as indicated by the fact that it hires, pays, fires, supervises, and otherwise controls the work of such employees. An association of employers is considered an employer if it has all of the indicia of an employer set forth in this definition. Such an association, however, is considered as a joint employer with the employer member if either shares in exercising one or more of the definitional indicia.

Employment and Training Administration (ETA) means the component of the Department of Labor that administers Federal government job training and worker dislocation programs, Federal grants to States for public ES programs, and unemployment insurance benefits. These services are provided primarily through State and local workforce development systems.

Employment-related laws means those laws that relate to the employment relationship, such as those enforced by the Department's WHD, OSHA, or by other Federal, State, or local agencies.

Employment Service (ES) office means a site in a local WDB where staff of the State Workforce Agency, consistent with the requirements of §652.215 of this chapter, provide Wagner-Peyser Act services as a one-stop partner program. A site must be co-located with a one-stop career center consistent with the requirements of §§678.305 through 678.315 of this chapter.

Attachment L

Employment Service (ES) regulations means the Federal regulations at this part and parts 652, 653, 654, 658 of this chapter, and 29 CFR part 75.

Establishment means a public or private economic employing unit generally at a single physical location which produces and/or sells goods or services, for example, a mine, factory, store, farm, orchard or ranch. It is usually engaged in one, or predominantly one, type of commercial or governmental activity. Each branch or subsidiary unit of a large employer in a geographical area or community must be considered an individual establishment, except that all such units in the same physical location is considered a single establishment. A component of an establishment which may not be located in the same physical structure (such as the warehouse of a department store) also must be considered as part of the parent establishment. For the purpose of the "seasonal farmworker" definition, farm labor contractors and crew leaders are not considered establishments; it is the organizations to which they supply the workers that are the establishments.

Farm work means the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities. This includes the raising of livestock, bees, fur-bearing animals, or poultry, the farming of fish, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market. It also includes the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state. For the purposes of this definition, agricultural commodities means all commodities produced on a farm including crude gum (oleoresin) from a living tree products processed by the original producer of the crude gum (oleoresin) from which they are derived, including gum spirits of turpentine and gum rosin. Farm work also means any service or activity covered under §655.103(c) of this chapter and/or 29 CFR 500.20(e) and any service or activity so identified through official Department guidance such as a Training and Employment Guidance Letter.

Farmworker means an individual employed in farm work, as defined in this section.

Field checks means random, unannounced appearances by State Workforce Agency personnel at agricultural worksites to which ES placements have been made through the intrastate or interstate clearance system to ensure that conditions are as stated on the job order and that the employer is not violating an employment-related law.

Field visits means appearances by Monitor Advocates or State Workforce Agency outreach personnel to the working and living areas of migrant and seasonal farmworkers (MSFWs), to discuss employment services and other employment-related programs with MSFWs, crew leaders, and employers. Monitor Advocates or outreach personnel must keep records of each such visit.

Governor means the chief executive of a State or an outlying area.

Attachment L

Hearing Officer means a Department of Labor Administrative Law Judge, designated to preside at Department administrative hearings.

Individual with a disability means an individual with a disability as defined in sec. 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

Interstate clearance order means an agricultural job order for temporary employment (employment on a less than year-round basis) describing one or more hard-to-fill job openings, which an ES office uses to request recruitment assistance from other ES offices in a different State.

Intrastate clearance order means an agricultural job order for temporary employment (employment on a less than year-round basis) describing one or more hard-to-fill job openings, which an ES office uses to request recruitment assistance from other ES offices within the State.

Job development means the process of securing a job interview with a public or private employer for a specific participant for whom the ES office has no suitable opening on file.

Job information means information derived from data compiled in the normal course of ES activities from reports, job orders, applications, and the like.

Job opening means a single job opportunity for which the ES office has on file a request to select and refer participants.

Job order means the document containing the material terms and conditions of employment relating to wages, hours, working conditions, worksite and other benefits, submitted by an employer.

Job referral means:

- (1) The act of bringing to the attention of an employer a participant or group of participants who are available for specific job openings or for a potential job; and
- (2) The record of such referral. "Job referral" means the same as "referral to a job."

Labor market area means an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence. Such an area must be identified in accordance with criteria used by the Department's Bureau of Labor Statistics in defining such areas or similar criteria established by a Governor.

Local Office Manager means the official in charge of all ES activities in a one-stop center.

Local Workforce Development Board or Local WDB means a Local Workforce Development Board established under sec. 107 of WIOA.

Attachment L

Migrant farmworker means a seasonal farmworker (as defined in this section) who travels to the job site so that the farmworker is not reasonably able to return to his/her permanent residence within the same day. Full-time students traveling in organized groups rather than with their families are excluded.

Migrant food processing worker see Migrant Farmworker.

MSFW means a migrant farmworker or a seasonal farmworker.

Occupational Information Network (O*NET) system means the online reference database which contains detailed descriptions of U.S. occupations, distinguishing characteristics, classification codes, and information on tasks, knowledge, skills, abilities, and work activities as well as information on interests, work styles, and work values.

One-stop center means a physical center within the one-stop delivery system, as described in sec. 121(e)(2)(A) of WIOA.

One-stop delivery system means a one-stop delivery system described in sec. 121(e) of WIOA.

One-stop partner means an entity described in sec. 121(b) of WIOA and §678.400 of this chapter that is participating in the operation of a one-stop delivery system.

O*NET-SOC means the occupational codes and titles used in the O*NET system, based on and grounded in the Standard Occupational Classification (SOC), which are the titles and codes utilized by Federal statistical agencies to classify workers into occupational categories for the purpose of collecting, calculating, and disseminating data. The SOC system is issued by the Office of Management and Budget and the Department of Labor is authorized to develop additional detailed O*NET occupations within existing SOC categories. The Department uses O*NET-SOC titles and codes for the purposes of collecting descriptive occupational information and for State reporting of data on training, credential attainment, and placement in employment by occupation.

Onsite review means an appearance by the State Monitor Advocate and/or Federal staff at an ES office to monitor the delivery of services and protections afforded by ES regulations to MSFWs by the State Workforce Agency and local ES offices.

Order holding office means an ES office that has accepted a clearance order from an employer seeking U.S. workers to perform farm work on a less than year-round basis through the Agricultural Recruitment System.

Outreach contact means each MSFW that receives the presentation of information, offering of assistance, or follow-up activity from an outreach worker.

Participant means a reportable individual who has received services other than the services described in §677.150(a)(3) of this chapter, after satisfying all applicable programmatic

Attachment L

requirements for the provision of services, such as eligibility determination. (See §677.150(a) of this chapter.)

(1) The following individuals are not Participants, subject to §677.150(a)(3)(ii) and (iii) of this chapter:

(i) Individuals who only use the self-service system; and

(ii) Individuals who receive information-only services or activities.

(2) Wagner-Peyser Act participants must be included in the program's performance calculations

Placement means the hiring by a public or private employer of an individual referred by the ES office for a job or an interview, provided that the employment office completed all of the following steps:

(1) Prepared a job order form prior to referral, except in the case of a job development contact on behalf of a specific participant;

(2) Made prior arrangements with the employer for the referral of an individual or individuals;

(3) Referred an individual who had not been specifically designated by the employer, except for referrals on agricultural job orders for a specific crew leader or worker;

(4) Verified from a reliable source, preferably the employer, that the individual had entered on a job; and

(5) Appropriately recorded the placement.

Public housing means housing operated by or on behalf of any public agency.

Regional Administrator (RA) means the chief Department of Labor Employment and Training Administration (ETA) official in each Department regional office.

Reportable individual means an individual who has taken action that demonstrates an intent to use Wagner-Peyser Act services and who meets specific reporting criteria of the Wagner-Peyser Act (see §677.150(b) of this chapter), including:

(1) Individuals who provide identifying information;

(2) Individuals who only use the self-service system; or

(3) Individuals who only receive information-only services or activities.

Respondent means the employer, individual, or State agency (including a State agency official) who is alleged to have committed the violation described in a complaint.

Seasonal farmworker means an individual who is employed, or was employed in the past 12 months, in farm work (as defined in this section) of a seasonal or other temporary nature and is not required to be absent overnight from his/her permanent place of residence. Non-migrant

Attachment L

individuals who are full-time students are excluded. Labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year. A worker who moves from one seasonal activity to another, while employed in farm work, is employed on a seasonal basis even though he/she may continue to be employed during a major portion of the year. A worker is employed on other temporary basis where he/she is employed for a limited time only or his/her performance is contemplated for a particular piece of work, usually of short duration. Generally, employment which is contemplated to continue indefinitely is not temporary.

Secretary means the Secretary of the U.S. Department of Labor or the Secretary's designee.

Significant MSFW one-stop centers are those designated annually by the Department and include those ES offices where MSFWs account for 10 percent or more of annual participants in employment services and those local ES offices which the administrator determines must be included due to special circumstances such as an estimated large number of MSFWs in the service area. In no event may the number of significant MSFW one-stop centers be less than 100 centers on a nationwide basis.

Significant MSFW States are those States designated annually by the Department and must include the 20 States with the highest number of MSFW participants.

Significant multilingual MSFW one-stop centers are those designated annually by the Department and include those significant MSFW ES offices where 10 percent or more of MSFW participants are estimated to require service provisions in a language(s) other than English unless the administrator determines other one-stop centers also must be included due to special circumstances.

Solicitor means the chief legal officer of the U.S. Department of Labor or the Solicitor's designee.

Standard Metropolitan Statistical Area (SMSA) means a metropolitan area designated by the Bureau of Census which contains:

- (1) At least 1 city of 50,000 inhabitants or more; or
- (2) Twin cities with a combined population of at least 50,000.

State means any of the 50 States, the District of Columbia, Guam, Puerto Rico, and Virgin Islands.

State Administrator means the chief official of the SWA.

State agency or State Workforce Agency (SWA) means the State ES agency designated under sec. 4 of the Wagner-Peyser Act.

Attachment L

State hearing official means a State official designated to preside at State administrative hearings convened to resolve complaints involving ES regulations pursuant to subpart E of part 658 of this chapter.

State Workforce Development Board or State WDB means the entity within a State appointed by the Governor under sec. 101 of WIOA.

Supply State(s) means a State that potentially has U.S. workers who may be recruited for referral through the Agricultural Recruitment System to the area of intended employment in a different State.

Supportive services means services that are necessary to enable an individual to participate in activities authorized under WIOA or the Wagner-Peyser Act. These services may include, but are not limited to, the following:

- (1) Linkages to community services;
- (2) Assistance with transportation;
- (3) Assistance with child care and dependent care;
- (4) Assistance with housing;
- (5) Needs-related payments;
- (6) Assistance with educational testing;
- (7) Reasonable accommodations for individuals with disabilities;
- (8) Referrals to health care;
- (9) Assistance with uniforms or other appropriate work attire and work-related tools, including such items as eyeglasses and protective eye gear;
- (10) Assistance with books, fees, school supplies, and other necessary items for students enrolled in postsecondary education classes; and
- (11) Payments and fees for employment and training-related applications, tests, and certifications.

Tests means a standardized method of measuring an individual's possession of, interest in, or ability to acquire, job skills and knowledge. Use of tests by one-stop staff must be in accordance with the provisions of:

- (1) Title 41 CFR part 60-3, Uniform Guidelines on Employee Selection Procedures;
- (2) Title 29 CFR part 1627, Records To Be Made or Kept Relating to Age; Notices To Be Posted; Administrative Exemptions; and
- (3) The Department of Labor's regulations on Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance, which have been published as 29 CFR part 32.

Attachment L

Training services means services described in sec. 134(c)(3) of WIOA.

Unemployment insurance claimant means a person who files a claim for benefits under any State or Federal unemployment compensation law.

Veteran means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable, as defined under 38 U.S.C. 101 and sec. 3(63)(A) of WIOA.

Wagner-Peyser Act Employment Service (ES) also known as Employment Service (ES) means the national system of public ES offices described under the Wagner-Peyser Act. Employment services are delivered through a nationwide system of one-stop centers, and are managed by State Workforce Agencies and the various local offices of the State Workforce Agencies, and funded by the United States Department of Labor.

WIOA means the Workforce Innovation and Opportunity Act (codified at 29 U.S.C. 3101 et seq.).

Workforce and Labor Market Information (WLMI) means the body of knowledge that describes the relationship between labor demand and supply. This includes identification and analysis of the socio-economic factors that influence employment, training, and business decisions, such as worker preparation, educational program offerings and related policy decisions within national, State, Sub state, and local labor market areas. WLMI includes, but is not limited to:

- (1) Employment numbers by occupation and industry;
- (2) Unemployment numbers and rates;
- (3) Short- and long-term industry and occupational employment projections;
- (4) Information on business employment dynamics, including the number and nature of business establishments, and share and location of industrial production;
- (5) Local employment dynamics, including business turnover rates; new hires, job separations, net job losses;
- (6) Job vacancy counts;
- (7) Job seeker and job posting data from the public labor exchange system;
- (8) Identification of high growth and high demand industries, occupations, and jobs;
- (9) Information on employment and earnings for wage and salary workers and for the self-employed;
- (10) Information on work hours, benefits, unionization, trade disputes, conditions of employment, and retirement;
- (11) Information on occupation-specific requirements regarding education, training, skills, knowledge, and experience;

WLMI also may include, as either source data or as outputs of analysis of source data:

Attachment L

- (12) Population and workforce growth and decline, classified by age, sex, race, and other demographic characteristics;
- (13) Identification of emerging occupations and evolving skill demands;
- (14) Business skill and hiring requirements;
- (15) Workforce characteristics, which may include skills, experience, education, credential attainment, competencies, etc.;
- (16) Workforce available in geographic areas;
- (17) Information on regional and local economic development activity, including job creation through business start-ups and expansions;
- (18) Enrollments in and completers from educational programs, training and registered apprenticeship;
- (19) Trends in industrial and occupational restructuring;
- (20) Shifts in consumer demands;
- (21) Data contained in governmental or administrative reporting including wage records as identified in §652.301 of this chapter;
- (22) Labor market intelligence gained from interaction with businesses, industry or trade associations, education agencies, government entities, and the public; and
- (23) Other economic factors.

Workforce and Labor Market Information System (WLMIS) means the system that collects, analyzes, interprets, and disseminates workforce characteristics and employment-related data, statistics, and information at national, State, and local labor market areas and makes that information available to the public, workforce development system, one-stop partner programs, and the education and economic development communities.

Workforce development activity means an activity carried out through a workforce development program as defined in sec. 3 of WIOA.

Working days or business days means those days that the order-holding ES office is open for public business, for purposes of the Agricultural Recruitment System.

Work test means activities designed to ensure that an individual whom a State determines to be eligible for unemployment insurance benefits is able to work, available for work, and actively seeking work in accordance with the State's unemployment compensation law.

Definitions listed above are current per publication 81 FR 56333, Aug. 19, 2016

For the purpose of the implementation of the nondiscrimination and equal opportunity provisions of the Workforce Innovation and Opportunity Act (WIOA), the following definitions apply:

Attachment L

(a) Administrative Law Judge means a person appointed as provided in 5 U.S.C. 3105 and 5 CFR 930.203, and qualified under 5 U.S.C. 557, to preside at hearings held under the nondiscrimination and equal opportunity provisions of WIOA and this part.

(b) Aid, benefit, service, or training means WIOA Title I-financially assisted services, financial or other aid, training, or benefits provided by or through a recipient or its employees, or by others through contract or other arrangements with the recipient. "Aid, benefit, service, or training" includes, but is not limited to:

- (1) Career Services;
- (2) Education or training;
- (3) Health, welfare, housing, social service, rehabilitation, or other supportive services;
- (4) Work opportunities;
- (5) Cash, loans, or other financial assistance to individuals; and
- (6) Any aid, benefits, services, or training provided in or through a facility that has been constructed, expanded, altered, leased, rented, or otherwise obtained, in whole or in part, with Federal financial assistance under Title I of WIOA.

(c) Applicant means an individual who is interested in being considered for any WIOA Title I-financially assisted aid, benefit, service, or training by a recipient, and who has signified that interest by submitting personal information in response to a request by the recipient. See also the definitions of "application for benefits," "eligible applicant/registrant," "participant," "participation," and "recipient" in this section.

(d) Applicant for employment means a person or persons who make(s) an application for employment with a recipient of Federal financial assistance under WIOA Title I.

(e) Application for benefits means the process by which information, including but not limited to a completed application form, is provided by applicants or eligible applicants before and as a condition of receiving any WIOA Title I-financially assisted aid, benefit, service, or training from a recipient.

(f) Assistant Attorney General means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

(g) Assistant Secretary means the Assistant Secretary for Administration and Management, United States Department of Labor.

(h) Auxiliary aids or services includes:

- (1) Qualified interpreters on-site or through video remote interpreting (VRI) services; note takers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based

Attachment L

telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective means of making aurally delivered materials available to individuals with hearing impairments;

(2) Qualified readers; taped texts; audio recordings; Brailled materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision;

(3) Acquisition or modification of equipment or devices; and

(4) Other similar services, devices, and actions.

(i) **Babel notice** means a short notice included in a document or electronic medium (e.g., Web site, "app," email) in multiple languages informing the reader that the communication contains vital information, and explaining how to access language services to have the contents of the communication provided in other languages.

(j) **Beneficiary** means the individual or individuals intended by Congress to receive aid, benefits, services, or training from a recipient.

(k) **Citizenship** See "Discrimination prohibited based on citizenship status." in §38.11.

(l) **CRC** means the Civil Rights Center, Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor.

(m) **Department** means the U.S. Department of Labor, including its agencies/organizational units.

(n) **Departmental grant making agency** means a grant making agency within the U.S. Department of Labor.

(o) **Director** means the Director, Civil Rights Center, Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor, or a designee authorized to act for the Director.

(p) **Direct threat** means a significant risk of substantial harm to the health or safety of others that cannot be eliminated or reduced by auxiliary aids and services, reasonable accommodations, or reasonable modifications in policies, practices and/or procedures. The determination whether an individual with a disability poses a direct threat must be based on an individualized assessment of the individual's present ability safely to either:

(1) Satisfy the essential eligibility requirements of the program or activity (in the case of aid, benefits, services, or training); or

(2) Perform the essential functions of the job (in the case of employment). This assessment must be based on a reasonable medical judgment that relies on the most

Attachment L

current medical knowledge and/or on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include:

- (i) The duration of the risk;
- (ii) The nature and severity of the potential harm;
- (iii) The likelihood that the potential harm will occur; and
- (iv) The imminence of the potential harm.

(q) Disability

(1) General. "Disability" means, with respect to an individual:

- (i) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- (ii) A record of such an impairment; or
- (iii) Being regarded as having such an impairment as described in paragraph (q)(7) of this section.

(2) Rules of construction.

- (i) The definition of "disability" shall be construed broadly in favor of expansive coverage, to the maximum extent permitted by Federal disability nondiscrimination law and this part.
- (ii) An individual may establish coverage under any one or more of the three prongs of the general definition of disability in paragraph (q)(1) of this section, the "actual disability" prong in paragraph (q)(1)(i) of this section, the "record of" prong in paragraph (q)(1)(ii) of this section, or the "regarded as" prong in paragraph (q)(1)(iii) of this section.
- (iii) Where an individual is not challenging a recipient's failure to provide reasonable accommodations or reasonable modifications under §38.14(a) or (b), it is generally unnecessary to proceed under the "actual disability" or "record of" prongs, which require a showing of an impairment that substantially limits a major life activity or a record of such an impairment. In these cases, the evaluation of coverage can be made solely under the "regarded as" prong of the definition of "disability," which does not require a showing of an impairment that substantially limits a major life activity or a record of such an impairment. An individual may choose, however, to proceed under the "actual disability" or "record of" prong regardless of whether the individual is challenging a recipient's failure to provide reasonable accommodations, or reasonable modifications.

(3) Physical or mental impairment.

(i) "Physical or mental impairment" means

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as: Neurological,

Attachment L

musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or

(B) Any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(ii) "Physical or mental impairment" includes, but is not limited to, contagious and noncontagious diseases and conditions such as the following: Orthopedic, visual, speech and hearing impairments, and cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, pregnancy-related medical conditions, dyslexia and other specific learning disabilities, Attention Deficit Hyperactivity Disorder, Human Immunodeficiency Virus infection (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

(iii) "Physical or mental impairment" does not include homosexuality or bisexuality.

(4) Major life activities.

(i) Major life activities include, but are not limited to:

(A) Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, writing, communicating, interacting with others, and working; and

(B) The operation of a "major bodily function," such as the functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive systems. The operation of a major bodily function includes the operation of an individual organ within a body system.

(ii) Rules of construction.

(A) In determining whether an impairment substantially limits a major life activity, the term "major" shall not be interpreted strictly to create a demanding standard.

(B) Whether an activity is a "major life activity" is not determined by reference to whether it is of central importance to daily life.

(5) Substantially limits—

(i) Rules of construction. The following rules of construction apply when determining whether an impairment substantially limits an individual in a major life activity.

(A) The term "substantially limits" shall be construed broadly in favor of expansive coverage, to the maximum extent permitted by Federal disability

Attachment L

nondiscrimination law and this part. "Substantially limits" is not meant to be a demanding standard.

(B) The primary object of attention in disability cases brought under WIOA Section 188 should be whether recipients have complied with their obligations and whether discrimination has occurred, not the extent to which an individual's impairment substantially limits a major life activity. Accordingly, the threshold issue of whether an impairment substantially limits a major life activity should not demand extensive analysis.

(C) An impairment that substantially limits one major life activity does not need to limit other major life activities in order to be considered a substantially limiting impairment.

(D) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

(E) An impairment is a disability within the meaning of this section if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population. An impairment does not need to prevent, or significantly or severely restrict, the individual from performing a major life activity in order to be considered substantially limiting. Nonetheless, not every impairment will constitute a disability within the meaning of this section.

(F) The determination of whether an impairment substantially limits a major life activity requires an individualized assessment. However, in making this assessment, the term "substantially limits" shall be interpreted and applied to require a degree of functional limitation that is lower than the standard for "substantially limits" applied prior to the ADA Amendments Act of 2008 (ADAAA).

(G) The comparison of an individual's performance of a major life activity to the performance of the same major life activity by most people in the general population usually will not require scientific, medical, or statistical evidence. Nothing in this paragraph (q)(5)(i)(G) is intended, however, to prohibit or limit the presentation of scientific, medical, or statistical evidence in making such a comparison where appropriate.

(H) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures. However, the ameliorative effects of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. Ordinary eyeglasses or contact lenses are lenses that are intended to fully correct visual acuity or to eliminate refractive error.

(I) The six-month "transitory" part of the "transitory and minor" exception in paragraph (q)(7)(ii) of this section does not apply to the "actual disability" or "record of" prongs of the definition of "disability." The effects of an impairment lasting or expected to last less than six months can be substantially limiting within

Attachment L

the meaning of this paragraph (q)(5)(i) for establishing an actual disability or a record of a disability.

(ii) Predictable assessments.

(A) The principles set forth in paragraph (q)(5)(i) of this section are intended to provide for more generous coverage and application of the prohibition on discrimination through a framework that is predictable, consistent, and workable for all individuals and recipients with rights and responsibilities with respect to avoiding discrimination on the basis of disability.

(B) Applying these principles, the individualized assessment of some types of impairments will, in virtually all cases, result in a determination of coverage under paragraph (q)(1)(i) of this section (the "actual disability" prong) or paragraph (q)(1)(ii) (the "record of" prong). Given their inherent nature, these types of impairments will, as a factual matter, virtually always be found to impose a substantial limitation on a major life activity. Therefore, with respect to these types of impairments, the necessary individualized assessment should be particularly simple and straightforward.

(C) For example, applying these principles, it should easily be concluded that the types of impairments set forth in paragraphs (q)(5)(ii)(C)(1) through (11) of this section will, at a minimum, substantially limit the major life activities indicated. The types of impairments described in paragraphs (q)(5)(ii)(C)(1) through (11) may substantially limit additional major life activities (including major bodily functions) not explicitly listed in paragraphs (q)(5)(ii)(C)(1) through (11).

- (1) Deafness substantially limits hearing;
- (2) Blindness substantially limits seeing;
- (3) Intellectual disability substantially limits brain function;
- (4) Partially or completely missing limbs or mobility impairments requiring the use of a wheelchair substantially limit musculoskeletal function;
- (5) Autism substantially limits brain function;
- (6) Cancer substantially limits normal cell growth;
- (7) Cerebral palsy substantially limits brain function;
- (8) Diabetes substantially limits endocrine function;
- (9) Epilepsy, muscular dystrophy, and multiple sclerosis each substantially limits neurological function;
- (10) Human Immunodeficiency Virus (HIV) infection substantially limits immune function; and
- (11) Major depressive disorder, bipolar disorder, post-traumatic stress disorder, traumatic brain injury, obsessive compulsive disorder, and schizophrenia each substantially limits brain function.

(iii) Condition, manner, or duration.

Attachment L

(A) At all times taking into account the principles in paragraph (q)(5)(i) of this section, in determining whether an individual is substantially limited in a major life activity, it may be useful in appropriate cases to consider, as compared to most people in the general population, the conditions under which the individual performs the major life activity; the manner in which the individual performs the major life activity; or the duration of time it takes the individual to perform the major life activity, or for which the individual can perform the major life activity.

(B) Consideration of facts such as condition, manner or duration may include, among other things, consideration of the difficulty, effort or time required to perform a major life activity; pain experienced when performing a major life activity; the length of time a major life activity can be performed; or the way an impairment affects the operation of a major bodily function. In addition, the non-ameliorative effects of mitigating measures, such as negative side effects of medication or burdens associated with following a particular treatment regimen, may be considered when determining whether an individual's impairment substantially limits a major life activity.

(C) In determining whether an individual has a disability under the "actual disability" or "record of" prongs of the definition of "disability," the focus is on how a major life activity is substantially limited, and not on what outcomes an individual can achieve. For example, someone with a learning disability may achieve a high level of academic success, but may nevertheless be substantially limited in one or more major life activities, including, but not limited to, reading, writing, speaking, or learning, because of the additional time or effort the individual must spend to read, write, speak, or learn compared to most people in the general population.

(D) Given the rules of construction set forth in paragraph (q)(5)(i) of this section, it may often be unnecessary to conduct an analysis involving most or all of the facts related to condition, manner, or duration. This is particularly true with respect to impairments such as those described in paragraph (q)(5)(ii)(C) of this section, which by their inherent nature should be easily found to impose a substantial limitation on a major life activity, and for which the individualized assessment should be particularly simple and straightforward.

(iv) Mitigating measures include, but are not limited to:

(A) Medication, medical supplies, equipment, appliances, low-vision devices (defined as devices that magnify, enhance, or otherwise augment a visual image, but not including ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aid(s) and cochlear implant(s) or other implantable hearing devices, mobility devices, and oxygen therapy equipment and supplies;

(B) Use of assistive technology;

(C) Reasonable modifications of policies, practices, and procedures, or auxiliary aids or services;

(D) Learned behavioral or adaptive neurological modifications; or

Attachment L

(E) Psychotherapy, behavioral therapy, or physical therapy.

(6) Has a record of such an impairment.

(i) An individual has a record of such an impairment if the individual has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(ii) Broad construction. Whether an individual has a record of an impairment that substantially limited a major life activity shall be construed broadly to the maximum extent permitted by Federal disability nondiscrimination law and this part and should not demand extensive analysis. An individual will be considered to fall within this prong of the definition of "disability" if the individual has a history of an impairment that substantially limited one or more major life activities when compared to most people in the general population, or was misclassified as having had such an impairment. In determining whether an impairment substantially limited a major life activity, the principles articulated in paragraph (q)(5)(i) of this section apply.

(iii) Reasonable accommodation or reasonable modification. An individual with a record of a substantially limiting impairment may be entitled to a reasonable accommodation or reasonable modification if needed and related to the past disability.

(7) Is regarded as having such an impairment. The following principles apply under the "regarded as" prong of the definition of "disability" (paragraph (q)(1)(iii) of this section):

(i) Except as set forth in paragraph (q)(7)(ii) of this section, an individual is "regarded as having such an impairment" if the individual is subjected to an action prohibited by WIOA Section 188 and this part because of an actual or perceived physical or mental impairment, whether or not that impairment substantially limits, or is perceived to substantially limit, a major life activity, even if the recipient asserts, or may or does ultimately establish, a defense to the action prohibited by WIOA Section 188 and this part.

(ii) An individual is not "regarded as having such an impairment" if the recipient demonstrates that the impairment is, objectively, both "transitory" and "minor." A recipient may not defeat "regarded as" coverage of an individual simply by demonstrating that it subjectively believed the impairment was transitory and minor; rather, the recipient must demonstrate that the impairment is (in the case of an actual impairment) or would be (in the case of a perceived impairment), objectively, both "transitory" and "minor." For purposes of this section, "transitory" is defined as lasting or expected to last six months or less.

(iii) Establishing that an individual is "regarded as having such an impairment" does not, by itself, establish liability. Liability is established only when an individual proves that a recipient discriminated on the basis of disability within the meaning of federal nondiscrimination law and this part.

Attachment L

(r) Eligible applicant/registrant means an individual who has been determined eligible to participate in one or more WIOA Title I-financially assisted programs or activities.

(s) Employment practices of a recipient include, but are not limited to:

- (1) Recruitment or recruitment advertising;
- (2) Selection, placement, layoff or termination of employees;
- (3) Upgrading, promotion, demotion or transfer of employees;
- (4) Training, including employment-related training;
- (5) Participation in upward mobility programs;
- (6) Deciding rates of pay or other forms of compensation;
- (7) Use of facilities; or
- (8) Deciding other terms, conditions, benefits, and/or privileges of employment.

(t) Employment-related training means training that allows or enables an individual to obtain skills, abilities and/or knowledge that are designed to lead to employment.

(u) Entity means any person, corporation, partnership, joint venture, sole proprietorship, unincorporated association, consortium, Native American tribe or tribal organization, Native Hawaiian organization, and/or entity authorized by State or local law; any State or local government; and/or any agency, instrumentality or subdivision of such a government.

(v) Facility means all or any portion of buildings, structures, sites, complexes, equipment, roads, walks, passageways, parking lots, rolling stock or other conveyances, or other real or personal property or interest in such property, including the site where the building, property, structure, or equipment is located. The phrase "real or personal property" in the preceding sentence includes indoor constructs that may or may not be permanently attached to a building or structure. Such constructs include, but are not limited to, office cubicles, computer kiosks, and similar constructs.

(w) Federal grant making agency means a Federal agency that provides financial assistance under any Federal statute.

(x) Financial assistance means any of the following:

- (1) Any grant, sub grant, loan, or advance of funds, including funds extended to any entity for payment to or on behalf of participants admitted to that recipient for training, or extended directly to such participants for payment to that recipient;
- (2) Provision of the services of grant making agency personnel, or of other personnel at the grant making agency's expense;
- (3) A grant or donation of real or personal property or any interest in or use of such property, including:
 - (i) Transfers or leases of property for less than fair market value or for reduced consideration;

Attachment L

(ii) Proceeds from a subsequent sale, transfer, or lease of such property, if the grant making agency's share of the fair market value of the property is not returned to the grant making agency; and

(iii) The sale, lease, or license of, and/or the permission to use (other than on a casual or transient basis), such property or any interest in such property, either:

(A) Without consideration;

(B) At a nominal consideration; or

(C) At a consideration that is reduced or waived either for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to or use by the recipient;

(4) Waiver of charges that would normally be made for the furnishing of services by the grant making agency; and

(5) Any other agreement, arrangement, contract or subcontract (other than a procurement contract or a contract of insurance or guaranty), or other instrument that has as one of its purposes the provision of assistance or benefits under the statute or policy that authorizes assistance by the grant making agency.

(y) Financial assistance under Title I of WIOA means any of the following, when authorized or extended under WIOA Title I:

(1) Any grant, sub grant, loan, or advance of federal funds, including funds extended to any entity for payment to or on behalf of participants admitted to that recipient for training, or extended directly to such participants for payment to that recipient;

(2) Provision of the services of Federal personnel, or of other personnel at Federal expense;

(3) A grant or donation of Federal real or personal property or any interest in or use of such property, including:

(i) Transfers or leases of property for less than fair market value or for reduced consideration;

(ii) Proceeds from a subsequent sale, transfer, or lease of such property, if the Federal share of the fair market value of the property is not returned to the Federal Government; and

(iii) The sale, lease, or license of, and/or the permission to use (other than on a casual or transient basis), such property or any interest in such property, either:

(A) Without consideration;

(B) At a nominal consideration; or

(C) At a consideration that is reduced or waived either for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to or use by the recipient;

(4) Waiver of charges that would normally be made for the furnishing of Government services; and

Attachment L

(5) Any other agreement, arrangement, contract or subcontract (other than a Federal procurement contract or a contract of insurance or guaranty), or other instrument that has as one of its purposes the provision of assistance or benefits under WIOA Title I.

(z) Fundamental alteration means:

- (1) A change in the essential nature of a program or activity as defined in this part, including but not limited to an aid, service, benefit, or training; or
- (2) A cost that a recipient can demonstrate would result in an undue burden. Factors to be considered in making the determination whether the cost of a modification would result in such a burden include:
 - (i) The nature and net cost of the modification needed, taking into consideration the availability of tax credits and deductions, and/or outside financial assistance, for the modification;
 - (ii) The overall financial resources of the facility or facilities involved in the provision of the modification, including:
 - (A) The number of persons aided, benefited, served, or trained by, or employed at, the facility or facilities; and
 - (B) The effect the modification would have on the expenses and resources of the facility or facilities;
 - (iii) The overall financial resources of the recipient, including:
 - (A) The overall size of the recipient;
 - (B) The number of persons aided, benefited, served, trained, or employed by the recipient; and
 - (C) The number, type and location of the recipient's facilities;
 - (iv) The type of operation or operations of the recipient, including:
 - (A) The geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the recipient; and
 - (B) Where the modification sought is employment-related, the composition, structure and functions of the recipient's workforce; and
 - (v) The impact of the modification upon the operation of the facility or facilities, including:
 - (A) The impact on the ability of other participants to receive aid, benefit, service, or training, or of other employees to perform their duties; and
 - (B) The impact on the facility's ability to carry out its mission.

(aa) Governor means the chief executive of a State or an outlying area, or the Governor's designee.

Attachment L

(bb) Grant applicant means an entity that submits required documentation to the Governor, recipient, or Department, before and as a condition of receiving financial assistance under Title I of WIOA.

(cc) Grant making agency means an entity that provides Federal financial assistance.

(dd) Guideline means written informational material supplementing an agency's regulations and provided to grant applicants and recipients to provide program-specific interpretations of their responsibilities under the regulations.

(ee) Illegal use of drugs means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act, as amended (21 U.S.C. 812). "Illegal use of drugs" does not include the use of a drug taken under supervision of a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(ff) Individual with a disability means a person who has a disability as previously defined in this section.

(1) The term "individual with a disability" does not include an individual on the basis of:

- (i) Transvestism, transsexualism, or gender identity disorders not resulting from physical impairments;
- (ii) Pedophilia, exhibitionism, voyeurism, or other sexual behavior disorders;
- (iii) Compulsive gambling, kleptomania, or pyromania; or
- (iv) Psychoactive substance use disorders resulting from current illegal use of drugs.

(2) The term "individual with a disability" does not include an individual who is currently engaging in the illegal use of drugs, when a recipient acts on the basis of such use. This limitation does not exclude as an individual with a disability an individual who:

- (i) Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of drugs;
- (ii) Is participating in a supervised rehabilitation program and is no longer engaging in such use; or
- (iii) Is erroneously regarded as engaging in such use, but is not engaging in such use, except that it is not a violation of the nondiscrimination and equal opportunity provisions of WIOA or this part for a recipient to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (ff)(2)(i) or (ii) of this section is no longer engaging in the illegal use of drugs.

(3) With regard to employment, the term "individual with a disability" does not include any individual who:

- (i) Is an alcoholic if:

Attachment L

(A) The individual's current use of alcohol prevents such individual from performing the duties of the job in question; or

(B) The individual's employment, by reason of such current alcohol abuse, would constitute a direct threat to the individual or the safety of others; or

(ii) Has a currently contagious disease or infection, if:

(A) That disease or infection prevents the individual from performing the essential functions of the job in question; or

(B) The individual's employment, because of that disease or infection, would constitute a direct threat to the health or safety of the individual or others.

(gg) Labor market area means an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence. Such an area must be identified in accordance with either criteria used by the Bureau of Labor Statistics of the Department of Labor in defining such areas, or similar criteria established by a Governor.

(hh) Limited English proficient (LEP) individual means an individual whose primary language for communication is not English and who has a limited ability to read, speak, write, and/or understand English. LEP individuals may be competent in English for certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing).

(ii) LWDA (Local Workforce Development Area) grant recipient means the entity that receives WIOA Title I financial assistance for a local area directly from the Governor and disburses those funds for workforce development activities.

(jj) National Programs means:

(1) Job Corps; and

(2) Programs receiving Federal financial assistance under Title I, Subtitle D of WIOA directly from the Department. Such programs include, but are not limited to, the Migrant and Seasonal Farmworkers Programs, Native American Programs, National Dislocated Worker Grant Programs, and YouthBuild programs.

(kk) Noncompliance means a failure of a grant applicant or recipient to comply with any of the applicable requirements of the nondiscrimination and equal opportunity provisions of WIOA and this part.

(ll) Nondiscrimination Plan means the written document and supporting documentation developed under §38.54.

(mm) On-the-Job Training (OJT) means training by an employer that is provided to a paid participant while the participant is engaged in productive work that:

Attachment L

- (1) Provides knowledge or skills essential to the full and adequate performance of the job;
- (2) Provides reimbursement to the employer of up to 50 percent of the wage rate of the participant (or up to 75 percent as provided in WIOA section 134(c)(3)(H)), for the extraordinary costs of providing the training and additional supervision related to the training; and
- (3) Is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.

(nn) Other power-driven mobility device means any mobility device powered by batteries, fuel, or other engines or by similar means—whether or not designed primarily for use by individuals with mobility disabilities—that is used by individuals with mobility disabilities for the purpose of locomotion, including golf cars, electronic personal assistance mobility devices (EPAMDs), such as the Segway® PT, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair within the meaning of this section.

(oo) Participant means an individual who has been determined to be eligible to participate in, and who is receiving any aid, benefit, service, or training under, a program or activity financially assisted in whole or in part under Title I of WIOA. "Participant" includes, but is not limited to, individuals receiving any service(s) under State Employment Service programs, and claimants receiving any service(s) or benefits under State Unemployment Insurance programs.

(pp) Participation is considered to commence on the first day, following determination of eligibility, on which the participant began receiving subsidized aid, benefit, service, or training provided under Title I of WIOA.

(qq) Parties to a hearing means the Department and the grant applicant(s), recipient(s), or Governor.

(rr) Population eligible to be served means the total population of adults and eligible youth who reside within the labor market area that is served by a particular recipient, and who are eligible to seek WIOA Title I-financially assisted aid, benefits, services, or training from that recipient. See the definition of "labor market area" in this section.

(ss) Program or activity, see "WIOA Title I-financially assisted program or activity" in this section.

(tt) Programmatic accessibility means policies, practices, and procedures providing effective and meaningful opportunity for persons with disabilities to participate in or benefit from aid, benefits, services, and training.

(uu) Prohibited basis means any basis upon which it is illegal to discriminate under the nondiscrimination and equal opportunity provisions of WIOA or this part, i.e., race, color, religion, sex, national origin, age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, citizenship status or participation in a WIOA Title I-financially assisted program or activity.

Attachment L

(vv) Public entity means:

- (1) Any State or local government; and
- (2) Any department, agency, special purpose district, workforce development board, or other instrumentality of a State or States or local government.

(ww) Qualified individual with a disability means:

- (1) With respect to employment, an individual who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position;
- (2) With respect to aid, benefits, services, or training, an individual who, with or without auxiliary aids and services, reasonable accommodations, and/or reasonable modifications in policies, practices and procedures, meets the essential eligibility requirements for the receipt of such aid, benefits, services, or training.

(xx) Qualified interpreter means an interpreter who is able to interpret effectively, accurately, and impartially, either for individuals with disabilities or for individuals who are limited English proficient. The interpreter must be able to interpret both receptively and expressively, using any necessary specialized vocabulary, either in-person, through a telephone, a video remote interpreting (VRI) service, or via internet, video, or other technological methods.

- (1) Qualified interpreter for an individual with a disability includes, for example, a sign language interpreter, oral transliterator, and cued-language transliterator. When an interpreter is provided to a person with a disability, the qualified interpreter must be able to sign or otherwise communicate effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.
- (2) Qualified interpreter for an individual who is limited English proficient means an individual who demonstrates expertise and ability to communicate information effectively, accurately, and impartially, in both English and the other language, and identifies and employs the appropriate mode of interpreting (e.g., consecutive, simultaneous, or sight translation).

(yy) Reasonable accommodation.

(1) The term "reasonable accommodation" means:

- (i) Modifications or adjustments to an application/registration process that enables a qualified applicant/registrant with a disability to be considered for the aid, benefits, services, training, or employment that the qualified applicant/registrant desires; or
- (ii) Modifications or adjustments that enable a qualified individual with a disability to perform the essential functions of a job or to receive aid, benefits,

Attachment L

services, or training equal to that provided to qualified individuals without disabilities. These modifications or adjustments may be made to:

- (A) The environment where work is performed or aid, benefits, services, or training are given; or
- (B) The customary manner in which, or circumstances under which, a job is performed or aid, benefits, services, or training are given; or
- (iii) Modifications or adjustments that enable a qualified individual with a disability to enjoy the same benefits and privileges of the aid, benefits, services, training, or employment as are enjoyed by other similarly situated individuals without disabilities.

(2) "Reasonable accommodation" includes, but is not limited to:

- (i) Making existing facilities used by applicants, registrants, eligible applicants/registrants, participants, applicants for employment, and employees readily accessible to and usable by individuals with disabilities; and
- (ii) Restructuring of a job or a service, or of the way in which aid, benefits, services, or training is/are provided; part-time or modified work or training schedules; acquisition or modification of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; the provision of readers or interpreters; and other similar accommodations for individuals with disabilities.

(3) To determine the appropriate reasonable accommodation, it may be necessary for the recipient to initiate an informal, interactive process with the qualified individual with a disability in need of the accommodation. This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations.

(4) A recipient is required, absent undue hardship, to provide a reasonable accommodation to an otherwise qualified individual who meets the definition of disability under the "actual disability" prong (paragraph (q)(1)(i) of this section) or the "record of" a disability prong (paragraph (q)(1)(ii) of this section), but is not required to provide a reasonable accommodation to an individual who meets the definition of disability solely under the "regarded as" prong (paragraph (q)(1)(iii) of this section).

(zz) **Recipient** means entity to which financial assistance under Title I of WIOA is extended, directly from the Department or through the Governor or another recipient (including any successor, assignee, or transferee of a recipient). The term excludes any ultimate beneficiary of the WIOA Title I-financially assisted program or activity. In instances in which a Governor operates a program or activity, either directly or through a State agency, using discretionary funds apportioned to the Governor under WIOA Title I (rather than disbursing the funds to another recipient), the Governor is also a recipient. In addition, for purposes of this part, one-stop partners, as defined in section 121(b) of WIOA, are treated as "recipients," and are subject to the nondiscrimination and equal opportunity requirements of this part, to the extent that they participate in the one-stop delivery system. "Recipient" includes, but is not limited to:

Attachment L

- (1) State-level agencies that administer, or are financed in whole or in part with, WIOA Title I funds;
- (2) State Workforce Agencies;
- (3) State and Local Workforce Development Boards;
- (4) LWDA grant recipients;
- (5) One-stop operators;
- (6) Service providers, including eligible training providers;
- (7) On-the-Job Training (OJT) employers;
- (8) Job Corps contractors and center operators;
- (9) Job Corps national training contractors;
- (10) Outreach and admissions agencies, including Job Corps contractors that perform these functions;
- (11) Placement agencies, including Job Corps contractors that perform these functions;
- (12) Other National Program recipients.

(aaa) Registrant means the same as “applicant” for purposes of this part. See also the definitions of “application for benefits,” “eligible applicant/registrant,” “participant,” “participation,” and “recipient” in this section.

(bbb) Respondent means a grant applicant or recipient (including a Governor) against which a complaint has been filed under the nondiscrimination and equal opportunity provisions of WIOA or this part.

(ccc) Secretary means the Secretary of Labor, U.S. Department of Labor, or the Secretary's designee.

(ddd) Sectarian activities means religious worship or ceremony, or sectarian instruction.

(eee) Section 504 means Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended, which forbids discrimination against qualified individuals with disabilities in federally-financed and conducted programs and activities.

(fff) Service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons

Attachment L

with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship, without more, do not constitute work or tasks for the purposes of this definition.

(ggg) Service provider means:

- (1) Any operator of, or provider of aid, benefits, services, or training to:
 - (i) Any program or activity that receives WIOA Title I financial assistance from or through any State or LWDA grant recipient; or
 - (ii) Any participant through that participant's Individual Training Account (ITA); or
- (2) Any entity that is selected and/or certified as an eligible provider of training services to participants.

(hhh) Small recipient means a recipient who:

- (1) Serves a total of fewer than 15 beneficiaries during the entire grant year; and
- (2) Employs fewer than 15 employees on any given day during the grant year.

(iii) Solicitor means the Solicitor of Labor, U.S. Department of Labor, or the Solicitor's designee.

(jjj) State means the individual states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau.

(kkk) State Programs means programs financially assisted in whole or in part under Title I of WIOA in which either:

- (1) The Governor and/or State receives and disburses the grant to or through LWDA grant recipients; or
- (2) The Governor retains the grant funds and operates the programs, either directly or through a State agency.
- (3) "State Programs" also includes State Workforce Agencies, State Employment Service agencies, and/or State unemployment compensation agencies.

(lll) State Workforce Agency (SWA) means the State agency that, under the State Administrator, contains both State agencies with responsibility for administering programs authorized under the Wagner-Peyser Act, and unemployment insurance programs authorized under Title III of the Social Security Act.

(mmm) Supportive services means services, such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to enable an individual to participate in

Attachment L

WIOA Title I-financially assisted programs and activities, as consistent with the provisions of WIOA Title I.

(nnn) Terminee means a participant whose participation in the program or employee whose employment with the program ends voluntarily or involuntarily, during the applicable program year.

(ooo) Title VI means Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., as amended, which forbids recipients of federal financial assistance from discriminating on the basis of race, color, or national origin.

(ppp) Transferee means a person or entity to whom or to which real or personal property, or an interest in such property, is transferred.

(qqq) Ultimate beneficiary, see the definition of "beneficiary" in this section.

(rrr) Undue burden or undue hardship has different meanings, depending upon whether it is used with regard to reasonable accommodation of individuals with disabilities, or with regard to religious accommodation.

(1) Reasonable accommodation of individuals with disabilities.

(i) In general, "undue hardship" means significant difficulty or expense incurred by a recipient, when considered in light of the factors set forth in paragraph (rrr)(1)(ii) of this section.

(ii) Factors to be considered in determining whether an accommodation would impose an undue hardship on a recipient include:

(A) The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions, and/or outside funding, for the accommodation;

(B) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, including:

(1) The number of persons aided, benefited, served, or trained by, or employed at, the facility or facilities; and

(2) The effect the accommodation would have on the expenses and resources of the facility or facilities;

(C) The overall financial resources of the recipient, including:

(1) The overall size of the recipient;

(2) The number of persons aided, benefited, served, trained, or employed by the recipient; and

(3) The number, type and location of the recipient's facilities;

(D) The type of operation or operations of the recipient, including:

Attachment L

- (1) The geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the recipient; and
- (2) Where the individual is seeking an employment-related accommodation, the composition, structure and functions of the recipient's workforce; and

(E) The impact of the accommodation upon the operation of the facility or facilities, including:

- (1) The impact on the ability of other participants to receive aid, benefits, services, or training, or of other employees to perform their duties; and
- (2) The impact on the facility's ability to carry out its mission.
- (3) Religious accommodation. For purposes of religious accommodation only, "undue hardship" means anything more than a de minimis cost or operational burden that a particular accommodation would impose upon a recipient.

(sss) Video remote interpreting (VRI) service means an interpreting service that uses video conference technology over dedicated lines or wireless technology offering high-speed, wide-bandwidth video connection that delivers high-quality video images, as provided in §38.15.

(ttt) Vital information means information, whether written, oral or electronic, that is necessary for an individual to understand how to obtain any aid, benefit, service, and/or training; necessary for an individual to obtain any aid, benefit, service, and/or training; or required by law. Examples of documents containing vital information include, but are not limited to applications, consent and complaint forms; notices of rights and responsibilities; notices advising LEP individuals of their rights under this part, including the availability of free language assistance; rulebooks; written tests that do not assess English language competency, but rather assess competency for a particular license, job, or skill for which English proficiency is not required; and letters or notices that require a response from the beneficiary or applicant, participant, or employee.

(uuu) Wheelchair means a manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor and/or outdoor locomotion.

(vvv) WIOA means the Workforce Innovation and Opportunity Act.

(www) WIOA Title I financial assistance, see the definition of "Financial assistance under WIOA" in this section.

(xxx) WIOA Title I-financially assisted program or activity means:

- (1) A program or activity, operated by a recipient and financially assisted, in whole or in part, under Title I of WIOA that provides either:
 - (i) Any aid, benefit, service, or training to individuals; or

Attachment L

- (ii) Facilities for furnishing any aid, benefits, services, or training to individuals;
- (2) Aid, benefit, service, or training provided in facilities that are being or were constructed with the aid of Federal financial assistance under WIOA Title I; or
- (3) Aid, benefit, service, or training provided with the aid of any non-WIOA Title I financial assistance, property, or other resources that are required to be expended or made available in order for the program to meet matching requirements or other conditions which must be met in order to receive the WIOA Title I financial assistance. See the definition of “aid, benefit, service, or training” in this section.



UNITED STATES DEPARTMENT OF LABOR

Employment & Training Administration

ONE-STOP CAREER CENTER ~ CENTRO VOCACIONAL

IF YOU HAVE A COMPLAINT ABOUT:

- ☐ A One-Stop Career Center
- ☐ A job you were referred to by a One-Stop Career Center

Contact your local One-Stop Career Center manager or write to:

SI USTED TIENE UNA QUEJA ACERCA DE:

- ☐ Un Centro Vocacional
- ☐ Un trabajo al que fue referido por un Centro Vocacional

Comuníquese con la gerencia de su Centro Vocacional mas cercano o escriba a:



Department of Career Services
19 Staniford St, 1st Floor
Boston, MA 02114

Attn. Jose V. Ocasio, Complaint Officer
E-mail: dcsunifiedcomplaint@massmail.state.ma.us
Tel.: (617) 626-5587



If you have a complaint about other employment-related issues, your local One-Stop Career Center will provide you with information on agencies that may be able to assist you.

Si usted tiene una queja acerca de otros asuntos laborales, su Centro Vocacional le proporcionará información sobre las agencias que pueden ofrecerle ayuda.

eta

EMPLOYMENT AND TRAINING ADMINISTRATION
UNITED STATES DEPARTMENT OF LABOR

174



EQUAL OPPORTUNITY IS THE LAW

It is against the law for this recipient of Federal financial assistance to discriminate on the following bases: against any individual in the United States, on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or, against any beneficiary of, applicant to, or participant in programs financially assisted under Title I of the Workforce Innovation and Opportunity Act, on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.

The recipient must not discriminate in any of the following areas: deciding who will be admitted, or have access, to any WIOA Title I-financially assisted program or activity; providing opportunities in, or treating any person with regard to, such a program or activity; or making employment decisions in the administration of, or in connection with, such a program or activity.

Recipients of federal financial assistance must take reasonable steps to ensure that communications with individuals with disabilities are as effective as communications with others. This means that, upon request and at no cost to the individual, recipients are required to provide appropriate auxiliary aids and services to qualified individuals with disabilities.

WHAT TO DO IF YOU BELIEVE YOU HAVE EXPERIENCED DISCRIMINATION

If you think that you have been subjected to discrimination under a WIOA Title I-financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either: the recipient's Equal Opportunity Officer (or the person whom the recipient has designated for this purpose);

or

Director, Civil Rights Center (CRC), U.S. Department of Labor
200 Constitution Avenue NW, Room N-4123, Washington, DC 20210
or electronically as directed on the CRC website at www.dol.gov/crc.

If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center (see address above). If the recipient does not give you a written Notice of Final Action within 90 days of the day on which you filed your complaint, you may file a complaint with CRC before receiving that Notice. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient). If the recipient does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.

LA IGUALDAD DE OPORTUNIDAD ES LA LEY

La ley prohíbe que este beneficiario de asistencia financiera federal discrimine por los siguientes motivos: contra cualquier individuo en los Estados Unidos por su raza, color, religión, sexo (incluyendo el embarazo, el parto y las condiciones médicas relacionadas, y los estereotipos sexuales, el estatus transgénero y la identidad de género), origen nacional (incluyendo el dominio limitado del inglés), edad, discapacidad, afiliación o creencia política, o contra cualquier beneficiario, solicitante de trabajo o participante en programas de capacitación que reciben apoyo financiero bajo el Título I de la ley de Innovación y Oportunidad en la Fuerza Laboral (WIOA, por sus siglas en inglés), debido a su ciudadanía, o por su participación en un programa o actividad que recibe asistencia financiera bajo el Título I de WIOA.

El beneficiario no deberá discriminar en los siguientes áreas: decidiendo quién será permitido de participar, o tendrá acceso a cualquier programa o actividad que recibe apoyo financiero bajo el Título I de WIOA; proporcionando oportunidades en, o tratar a cualquier persona con respecto a un programa o actividad semejante; o tomar decisiones de empleo en la administración de, o en conexión a un programa o actividad semejante.

Los beneficiarios de asistencia financiera federal deben tomar medidas razonables para garantizar que las comunicaciones con las personas con discapacidades sean tan efectivas como las comunicaciones con los demás. Esto significa que, a petición y sin costo alguno para el individuo, los recipientes están obligados a proporcionar ayuda auxiliar y servicios para individuos con discapacidades calificados.

QUE DEBE HACER SI CREE QUE HA SIDO DISCRIMINADO

Si usted piensa que ha sido discriminado en un programa o actividad que recibe apoyo financiero bajo el Título I de WIOA, usted puede presentar una queja no más de 180 días después de la fecha en que ocurrió la presunta violación, ya sea con: El oficial de igualdad de oportunidad del recipiente (o la persona que el recipiente haya designado para este propósito);

O:

Director, Civil Rights Center (CRC), U.S. Department of Labor
200 Constitution Avenue NW, Room N-4123, Washington, DC 20210
o electrónicamente como indica el sitio web del CRC www.dol.gov/crc.

Si usted presenta una queja con el recipiente, usted debe esperar hasta que el recipiente emita una decisión final escrita o que pasen por lo menos 90 días (lo que ocurra primero), antes de presentar una queja con el Centro de Derechos Civiles (CRC, por sus siglas en inglés) a la dirección mencionada previamente. Si el beneficiario no le entrega una decisión final escrita dentro de 90 días después de la fecha en que presento su queja, usted puede presentar su queja con el CRC antes que reciba la decisión final. Sin embargo, es necesario presentar su queja con el CRC dentro de 30 días después de la fecha límite de 90 días (en otras palabras, dentro de 120 días después de la fecha en que presento la queja con el recipiente). Si el recipiente emite una decisión final escrita, pero usted no está satisfecho con el resultado o resolución, usted puede presentar una queja con el CRC. Usted debe presentar su queja con el CRC dentro de 30 días después que reciba la decisión final escrita.

Attachment N Key to Changes Regarding Attachments

New Attachment	Old Attachment	Revised Yes or No	New Document
03-101-2	03-101-1 Policy	Yes	
03-101-2A	03-101-1A & B		New
03-101-2A:1			New
03-101-2A:2	03-101-1C - D - E - F		New
03-101-2A:3	03-101-1C		New
03-101-2B	03-101-1A2	Yes	
03-101-2C:		No	
03-101-2C:1	03-101-1A1	Yes	
03-101-2C:2	03-101-1E1	Yes	
03-101-2D	03-101-1A3		New
03-101-2D:1	03-101-1A4	No	
03-101-2E	03-101-1I		New
03-101-2E:1	03-101-1J		New
03-101-2F	03-101-1H	Yes	
03-101-2F:1	03-101-1H1	Yes	
03-101-2G	03-101-1K		New
03-101-2G:1	03-101-1L		New
03-101-2H	03-101-1G	No	
03-101-2H:1	03-101-1G3	No	
03-101-2H:2	03-101-1G1	No	
03-101-2H:3	03-101-1G2	No	
03-101-2I	03-101-1P	No	
03-101-2J	03-101-1Q	No	
03-101-2K	03-101-1S	No	
03-101-2L	03-101-1R	Yes	
03-101-2M	03-101-1M	No	
03-101-2M:1	03-101-1N		New
03-101-2M:2	03-101-1O		New
03-101-2N	03-101-1T	Yes	

Small Purchase Procurement Package

The Small Purchase Procurement Package will consist of the following items:

- Letters/Emails sent to at least three (3) vendors describing the goods or services requested
- The letters/emails received in response to the solicitation.
- The Price Analysis for Goods and Services Between \$3,500 and \$150,000 Log Sheet
(Attachment M)
- The letter/email to the vendor confirming their selection.

MASSACHUSETTS WORKFORCE DEVELOPMENT SYSTEM

Mass Workforce Issuance

100 DCS 14.100.3☒ **Policy**☐ **Information**

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

cc: WIOA State Partners

From: Alice Sweeney, Director
 Department of Career Services

Richard Jeffers, Director
 Department of Unemployment Assistance

Date: August 15, 2017

Subject: **Massachusetts Eligible Training Provider List (MA ETPL) Initial and Subsequent Eligibility Process – UPDATED**

Purpose: To notify Local Workforce Development Boards, One-Stop Career Center Operators and other local workforce partners of policy guidance and instruction in establishing procedures related to the review of applications for initial and subsequent eligibility from training organizations wishing to provide training services under the Workforce Innovation and Opportunity Act of 2014 (WIOA). The Trade Adjustment Assistance Program (TAA), the Massachusetts Training Opportunities Program (TOP/Section 30), and Registered Apprentice Programs will follow the same protocols as described below unless otherwise noted. Please note that individual courses are approved by each agency program separately; approval from one agency program does not constitute approval from all.

Background: The State Workforce Agencies (DCS and DUA) and the Local Workforce Development Boards (Local Boards) must establish procedures for the training providers and course approval for initial and subsequent eligibility, effective July 1, 2015, that are compliant with the MA ETPL requirements.

Action

Required: The State Workforce Agency and each Local Board must ensure that processes for initial and subsequent eligibility adhere to the policy and procedural framework described in this issuance.

Effective: Immediately

References: Workforce Innovation and Opportunity Act, Section 122, Identification of Eligible Providers of Training Services.

WIA Communication 04-68, Process for Determination of Training Course Initial and Subsequent Eligibility for the Provision of Training Services to Individual Training Account Recipients under Title I of the Workforce Investment Act <http://www.mass.gov/massworkforce/docs/issuances/policy/2004/0468.pdf>

WIA Communication 14-52, Subsequent Eligibility for ITA Training Provider Courses <http://www.mass.gov/massworkforce/docs/issuances/policy/2014/1452.pdf>

Training and Employment Guidance Letter 41-14 (TEGL 41-14): WIOA Title I Training Provider Eligibility Transition

Training and Employment Guidance Letter 13-16 (TEGL 13-16): Guidance on Registered Apprenticeship Provisions and Opportunities in WIOA.

Inquiries: Please send questions related to this policy to PolicyQA@MassMail.State.MA.US with reference to this Issuance number and description.

I. OVERVIEW

Section 122(a)(1) of the Workforce Innovation and Opportunity Act requires that, *"Except as provided in subsection (h), the Governor, after consultation with the State board, shall establish criteria, information requirements, and procedures regarding the eligibility of providers of training services to receive funds provided under section 133(b) for the provision of training services in local areas in the State." (referred to...as 'initial eligibility')."*

Additionally, Section 122(c)(2) requires *"Renewal procedures.—The procedures established by the Governor shall also provide for biennial review and renewal of eligibility under this section for providers of training services" (referred to...as 'subsequent eligibility')."*

The workforce system established under the Workforce Innovation and Opportunity Act of 2014 (WIOA) emphasizes provider financial and programmatic integrity, system performance, informed customer choice and continuous improvement.

As the Commonwealth's designated Workforce Agency and administrator of WIOA programs, the Department of Career Services (DCS) is responsible for maintaining the *Statewide List of Eligible Training Service Providers/Courses*. As required by WIOA, DCS must ensure that Massachusetts providers meet the following:

- A. Financial Stability and Capacity:** Providers must show evidence of overall financial stability and the capacity to administer funding following accepted accounting practices. Additionally, training providers will be evaluated on the following:
 - a. Registered and issued a certificate of good standing with the Massachusetts Department of Unemployment Assistance (DUA).
 - b. No outstanding citations from the Office of the Attorney General, Fair Labor Practice or Consumer Protection Division within the prior 5 years.
 - c. No willful or repeat violations issued by the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA).
 - d. An active workers' compensation insurance policy and not debarred via the MA Department of Industrial Accidents (Businesses Issued Stop Work Orders by the Department of Industrial Accidents).
 - e. A Certificate of Good Standing from the Massachusetts Department of Revenue
 - f. Not listed on the Federal Government's Excluded Parties List System
 - g. Not listed on the Division of Capital Asset Management and Maintenance Debarred Contractor's List
 - h. Not listed on the Office of the Attorney General Vendor Debarment List
 - i. Not listed on the Contractors Suspended or Debarred by MassDOT
- B. Programmatic Capacity:** Providers must show evidence of programmatic capacity. Licensure by oversight/accreditation organizations such as the MA Dept. of Education, MA Board of Higher Education, the New England Association of

Schools and Colleges or other recognized accrediting agencies satisfies the requirement of evidence of program capacity. Eligible providers include:

- a. Massachusetts public colleges or universities accredited by the Massachusetts Department of Higher Education that offer training programs leading to a recognized post-secondary credential.
- b. Institutions of higher education accredited by the Commission on Institutions of Higher Education, New England Association of Schools and Colleges that offers training programs leading to a recognized post-secondary credential.
- c. Vocational / technical or public schools accredited by the Massachusetts Department of Elementary and Secondary Education offering training programs leading to a recognized post-secondary credential.
- d. Private Massachusetts providers of training services licensed or exempted from licensure by the MA Division of Professional Licensure's Office of Private Occupational School Education (DPL) or other authorizing or accrediting board or agency.
- e. Private Massachusetts providers of training services that have documented exemption from licensure.
- f. Adult Basic Education (ABE) /English for Speakers of Other Languages (ESOL) providers approved by the Massachusetts Department of Elementary and Secondary Education.
- g. Non-Massachusetts private or public providers licensed and/or accredited in the state of business registration (home state) or appearing on the home state's Eligible Training Provider List.
- h. Entities that carry out programs registered under the National Apprenticeship Act (29 U.S.C. 50 at seq.). Note: Sponsors of apprenticeship programs registered with the Division of Apprentice Standards (DAS), the State Apprenticeship Agency in Massachusetts, or with the US Department of Labor Office of Apprenticeship (USDOL/OA), are automatically eligible for inclusion on the Massachusetts ETPL. Sponsors are not subject to the same application and performance information requirements or to a period of initial eligibility or the initial eligibility procedures as other MA ETPL applicants due to the rigorous application and vetting process required for registered programs. The application process to become a registered apprenticeship program is similar to the process outlined in Section A "Financial Stability and Capacity", above, and does not need to be replicated by DCS for ETPL approval. [*Pre-apprenticeship programs do not have the same automatic ETPL approval as sponsors of registered apprenticeship programs.] Massachusetts DAS will notify registered apprentice program sponsors by letter of ETPL automatic eligibility. The letter of eligibility provides the sponsor with a list of required information and the link to Training Pro.

- C. **Verifiable Performance:** Training providers (except sponsors of registered apprenticeship programs) must provide the most recent available and verifiable performance data on all course participants. At a minimum, outcome data must be from performance within the previous two (2) years. Training providers must give

sufficient explanation if performance data are not available (for example, a course not previously offered).

Performance must meet these minimums:

- Completion Rate: 70%
- Entered Employment/Placement Rate*: 60%
- Placement Wage: State minimum wage

Performance for ABE, ESOL and HISET (high school equivalency) courses must meet these minimums:

- Completion Rate: 70%

These courses are considered remedial and do not provide credentials leading to employment.

*TOP/Section 30 Only – placement rate is as follows depending upon the State's unemployment rate (UR):

- UR at or below 7.0% , then placement rate must be at least 70%
- UR at or below 8.0% , then placement rate must be at least 60%
- UR above 8.0%, then placement rate must be at least 50%

Note: Approval of courses for TOP/Section 30 (DUA) and Trade (DCS) program participants may be handled on an individual basis due to particular circumstances.

D. Meeting Customer Needs: The process for determining initial and subsequent eligibility of providers' training programs is an integral part of the strategy for achieving consumer choice. Local Boards, using an application process and criteria established in partnership with the State will identify training providers whose performance qualifies them to receive funds under workforce programs.

In an effort to streamline and integrate workforce programs, provider and course approvals for the Trade Program (TAA) and Training Opportunities Program (TOP/Section 30) will be included in the processes described within this policy, where applicable. Trade and TOP/Section 30 course submissions are approved centrally by DCS and DUA, respectfully.

The statewide list of training programs is compiled based on the eligible provider programs as determined by DCS and Local Boards during the initial eligibility review/approval process and the subsequent eligibility process. Only those provider training programs appearing on the Statewide List of Eligible Training Service Courses/Providers are authorized for Individual Training Accounts (ITA) training services for WIOA Title I participants. The Trade Program and the Training Opportunities Program, upon customer request, will work with training providers

directly to gather additional required documentation to place them on approved vendor lists.

If the training program is approved by any of the Commonwealth's Local Boards, the training program will be included on the MA ETPL. Programs not approved by *any* Local Board for ITA, or by DCS or DUA, are excluded from the MA ETPL.

The MA ETPL includes information on training providers, descriptions of training programs, local workforce areas in which the programs are eligible, and performance and cost information about the training programs. The MA ETPL is available to the public through the JobQuest web application.

- E. State Appeal Process for Denied Training Providers:** The Appeal Process is defined in MassWorkforce Issuance 100 DCS 03.108, 07/01/2015, Unified Workforce System Complaint and Appeal Process and any subsequent revisions.

Note that TOP/Section 30 and Trade course denials are not appealable. Training providers can update and resubmit course information at any time and receive a new eligibility determination based on the new/additional information. Sponsors of registered apprentice programs receive automatic approval and subsequent removal from the list requires a request to DCS from the sponsor or from DAS when the program is no longer registered or in compliance.

II. INITIAL AND SUBSEQUENT ELIGIBILITY APPLICATION PROCESS

A. Training Provider Application Process

Prospective training providers must apply for course eligibility approval status for their programs electronically utilizing TrainingPro, an on-line training provider registration and course application program. It is designed to enable prospective providers to simultaneously apply for course approval for the following:

- WIOA Title I Individual Training Accounts (ITAs)
- Trade Adjustment Assistance Programs (TAA)
- Training Opportunities Program (TOP/Section 30)

Note: TAA requires completion of an additional Request for Resources (RFR) in order to meet TAA approval requirements and establish a contract with the State for providing TAA training. Access RFR at <https://www.commbuys.com/bsc/>. The information on the additional RFR is reviewed by the Executive Office of Labor and Workforce Development (EOLWD) Administration and Finance (ANF), Contracts and Procurement Department.

Local Boards are authorized to review provider applications for WIOA ITA, only.

Training providers can access TrainingPro at <https://web.detma.org/provider/prl.asp>.

(*Note: Sponsors of registered apprenticeship programs will automatically be approved due to the vetting required before approval as a sponsor. Sponsors are not subject to the local eligibility review process outlined in Section III below.)

B. Timeline

Prospective training providers may apply at any time on a year-round basis. Eligibility will be open and rolling; however, provider and course approvals will end on a fiscal year basis, i.e., June 30, regardless of when providers apply. TrainingPro will be available at the beginning of each June for providers to reapply. *(The State reserves the right to review training providers and courses at any time and to place providers or courses in hold status, if necessary, to resolve questions or concerns regarding a provider or course, or to remove a provider or course from the MA ETPL.)*

III. LOCAL ELIGIBILITY REVIEW PROCESS

On an annual basis, the State (DCS) will approve training providers that meet the requirements of financial stability and programmatic capacity described in Section I A, B, and C above. Local Boards will review and approve training courses/programs submitted by approved training providers.

Each Local Board must develop and maintain procedures to determine the eligibility of a training provider's courses/programs in an objective and consistent manner. Each Local Board must define its own procedures, consistent with the requirements of this policy directive.

A. Appointment of Reviewers

Procedures must include identification of the types of individuals who will review and determine eligibility of providers' courses/programs. Local Boards must consider and comply with their procurement requirements and procedures when appointing one or more reviewers. All reviewer(s) are subject to all WIOA and State conflict of interest requirements.

B. Use of State Minimum Criteria

Procedures must clearly describe how reviewers will apply any local policies related to the following factors:

- a. Quality programs related to in-demand industries and occupations as determined by the Local Board.
- b. Training programs that lead to industry recognized credentials and certificates.
- c. Documented performance meeting state minimums: Completion Rate: 70%; Entered Employment Rate: 60%; and Placement Wage: State minimum wage.

Note: Local areas should notify DCS at any time regarding questions or concerns about the programmatic or fiscal capacity of a provider on the MA ETPL.

C. Local Performance Criteria

Each Local Board may set higher levels of performance than the State minimum as criteria for training providers to become or remain on the MA ETPL to provide services in their local area.

Procedures must describe how reviewers will apply local performance standards in an objective and consistent manner. Applicants may not be penalized for failure to provide performance information if it is not available. However, as part of the application process a prospective provider *must* provide an explanation as to why the performance information is not available.

D. Review Timeline

Local Board designated reviewers must complete the review and determine the eligibility of a training course/program within 30 days following the date the training provider was approved by the State.

Local reviewers must regularly review all ITA training programs in "pending" status for the local area and a determination should be entered within the 30-day period. It is expected that each Local Board will establish a regular and timely review process to assure compliance with the 30-day standard.

- a. It is recommended that, at a minimum, Board reviewers conduct *weekly* searches for ITA courses in "pending" status so courses are made available on the MA ETPL timely.
- b. It is recommended that, at a minimum, Trade Program reviewers conduct *weekly* searches for Trade courses in "pending" status.
- c. It is recommended that, at a minimum, TOPs reviewers conduct *weekly* searches for TOP/Section 30 courses in "pending" status.

The reviewer will submit a brief explanation of the reason for denial of any training course/program in MOSES.

If, after 90 days, the Local Board has not made a determination on a training course/program submitted for ITA consideration, the training program will automatically be defaulted to "No Action Taken" in the MOSES database for ITA determinations only.

Only training courses/programs approved by the Local Board are eligible for funding in WIOA by the Local Board.

As cited earlier, training program applications not approved by *any* local area will be excluded from the MA ETPL.

E. Appeal Process for Denied Training Course/Programs

Each Local Board must establish an appeal process consistent with requirements in MassWorkforce Issuance, 100 DCS 03.108, 07/01/2015, Unified Workforce System Complaint and Appeal Process and any subsequent revisions.

IV. THE STATEWIDE ELIGIBLE PROVIDER LIST

The MA ETPL will be accessible to all local One-Stop Career Centers and their customers and to all Local Boards and to the public through JobQuest. The MA ETPL includes information on training providers, descriptions of training programs, local workforce areas in which the programs are eligible, and performance and cost information about the training programs.

If the training program has been approved by any of the Commonwealth's Local Boards, the training program will be included on the MA ETPL. The exception is automatic approval for sponsors of Apprenticeship programs registered with Massachusetts DAS or USDOL Office of Apprenticeship. Programs not approved by *any* Local Board for ITA, or by DCS or DUA, are excluded from the MA ETPL.

Please note, at any time, if information becomes available to DCS via DAS, OA or any other viable source, which would require the need to suspend or end a provider's eligibility or course(s) approval, DCS will take action to do so and notify the vendor and any other appropriate parties (i.e. local areas and/or TOPS Unit at DUA).

V. ITA SUBSEQUENT ELIGIBILITY

A. DCS Annual Subsequent Eligibility Procedures

On June 1 of each fiscal year, DCS will identify all approved training providers with courses having an end date that falls between April 1 and June 30 and also had at least one course enrollment since the previous July 1 (the start of the fiscal year). The training provider and course approval date(s) will be extended for an additional year, if:

- Training providers meet the fiscal, programmatic integrity and performance standards outlined in Overview sections A, B, and C above.
- DCS *will not* update any course approval for subsequent eligibility that does not meet the above criteria.
- Prior to actually performing the annual course subsequent eligibility for WIOA course approval, DCS will distribute to each Local Board the following:

- ✓ A list of all previously approved ITA courses for the local area that have been reviewed by DCS for subsequent eligibility determination. The list will specifically indicate which of those courses DCS intends to approve for subsequent eligibility and those it does not intend to approve for subsequent eligibility.
- ✓ Reports that the Local Board may use to review eligibility performance statistics based on data provided by the training provider and training provider performance for WIOA participants.

This "Subsequent Eligibility" communication will be forwarded to each Local Board no later than 2 weeks prior to the date that DCS intends to perform the actual subsequent eligibility update in the MOSES database. The communication will specifically reference the date on which DCS plans to perform the statewide "subsequent eligibility" update.

B. Local Area/Program Annual Subsequent Eligibility Procedures

Each Local Board, Trade and the TOP/Section 30 Program will designate a representative (or representatives) to review the subsequent eligibility communication from DCS to assess the consistency of the planned course/provider subsequent eligibility update to be performed by DCS (described above) with local or programmatic approval standards (related to local performance criteria such as completion rate, entered employment rate, etc.).

If a DCS "subsequent eligibility" update decision (to either approve or not approve) for a specific course is found to be inconsistent with local policy, the designated local reviewer will make appropriate changes to the course status for that course in MOSES. This status change must be completed immediately following the date on which DCS completes its "subsequent eligibility" update. As stated above, the communication forwarded to the Local Board will specifically identify the date on which DCS plans to perform the update.

PROCUREMENT FILE CHECKLIST

Solicitation Name/Type: _____ Total Funding: \$ _____

Funding Source: _____ Funding Period: _____

- _____ Procurement Planning Records (meeting minutes, etc.)
- _____ Copy of Solicitation Document (RFP, RFQ, IFB)
- _____ Original Public Notice(s)/Ads(s) (tear sheets)
- _____ Copy of Solicitation Mailing List(s)/ Email List(s)
- _____ List of Entities requesting a proposal
- _____ Records of Bidders Conference Attendance
- _____ Minutes from Bidders Conference
- _____ Copy(s) of Q & A's sent to JTEC/Cape and Islands Workforce Development Board
- _____ Copy(s) of Responses from JTEC/Cape and Islands Workforce Development Board to proposers
- _____ Copy(s) of amendments to solicitation
- _____ Log of proposals submitted
- _____ Copies of proposals submitted (with date stamp & time)
- _____ Minutes of Evaluation/Committee meeting(s)
- _____ Signed proposal rating sheets
- _____ Cost/Price analysis documentation
- _____ Signed review team non-conflict statements
- _____ Written recommendations of review team/committee
- _____ Documentation of proposal/contract negotiation(s)
- _____ Amended/Last and Final Proposals
- _____ Misc. proposal clarification documents/correspondence
- _____ Minutes of Award/Selection meetings and votes (Cape and Islands Workforce Development Board Executive Committee and Cape and Islands Workforce Development Board
- _____ Copies of Approval/Award/Rejection letters
- _____ Required certifications (debarment & suspension, etc.)

Vendor Name: _____

Vendor Address: _____

Date: _____

Accufund _____

Lookup #: _____

[illegible]

Funding Source	Fiscal Year	Cost Category	Expense Account	Amount
			\$	
Total Cost →				\$

Requested By: _____
 Managers Signature: _____
 Fiscal Approval: _____
 President Approval: _____

[illegible]

Accufund Batch #: _____ P.O. # _____ Check # _____ Total Payment Amt: \$ _____
 Voucher Allocation: _____ Check Date: _____ Check Amount: \$ _____
☐ Pay as per attached P.O. _____

Attachment L

Requested By: _____

Fiscal Approval: _____

President Approval: _____

Response Date: _____

Goods/Services to be Purchased: _____

[illegible]

**Time Line for Solicitation of Program and Service Procurements for
Solicitations Over \$150,000 (Simplified Acquisition Threshold)**

1. Requirement Identified	<u> </u> Date
2. Prepare Solicitation	<u> </u> Date
3. Cape and Islands Workforce Development Board/ Executive Committee Review	<u> </u> Date
4. Cape and Island Workforce Development Review	<u> </u> Date
5. RFP/IFB Ready	<u> </u> Date
6. Publicize & Release	<u> </u> Date
7. Written Questions Due From Prospective Bidders	<u> </u> Date
8. Bidders Conference(s) Held	<u> </u> Date
9. Proposals Due	<u> </u> Date
10. Evaluation Committee Review	<u> </u> Date
11. Request for Clarification from Offerors (if needed)	<u> </u> Date
12. Evaluation Committee Review: Requested Clarifications and Develop Recommendations to the Cape and Islands Workforce Development Board Executive Committee	<u> </u> Date
13. Cape and Islands Workforce Development Board Executive Committee Review & Approve/ Disapprove	<u> </u> Date
14. Cape and Islands Workforce Development Board Review & Approve/Disapprove	<u> </u> Date
15. LEO Concurrence	<u> </u> Date
16. Contract Award Letter Issued	<u> </u> Date
17. Contract Negotiations	<u> </u> Date
18. Contract Signed	<u> </u> Date

19. Work Begins

Date

20. Contract Completed

Date

21. Contract Closed Out

Date

SAMPLE QUALIFYING CRITERIA

Date of Review _____

JTEC Staff Reviewer _____

Proposer's Organization _____

Name of Program _____

Proposal Submission Date & Time _____

	<u>YES</u>	<u>NO</u>
1. Was the proposal submitted by the closing date and time?	_____	_____
2. Did the CEO as the authorized signatory sign the proposal and is the appropriate certification attached?	_____	_____
3. Does the proposer agree to the performance standards?	_____	_____
4. Does the proposal include a statement that the proposer can forward fund the program?	_____	_____
5. Did the proposer submit a copy of their most recent audit and management letter?	_____	_____
6. Is all of the information required in the RFP as listed in the Proposal Checklist included in the proposal?	_____	_____

If the answer to any of the above questions is no, then the proposal does not meet the qualifying criteria (it is not considered to be responsive) and will not be reviewed and ranked.

SAMPLE SELECTION CRITERIA

Date of Review: _____
 Reviewer: _____
 Proposer's Organization: _____
 Name of Program: _____
 Proposal Submission Date: _____

1. Does the Executive Summary provide complete overview of the program? (0-25 pts.) _____
 Comments: _____

 2. Has the proposer clearly identified the goals and objectives for the program including the number of youth to be served? (0-50 pts.) _____
 Comments: _____

 3. Are the goals identified by the proposer consistent with the goals of the RFP, measurable and attainable during the contract period? (0-50 pts.) _____
 Comments: _____

 4. Have the demographics of the eligible target population been described in detail? (0-50 pts.) _____
 Comments: _____

- Bonus points (150 pts.) will be given for programs which have court involved youth as the majority of their enrollments: _____
 Comments: _____

5. Have the demographics of the geographical area being served by this program been described? (0-10 pts.) _____
 Comments: _____

-
6. Have the outreach and recruitment activities being used to identify members of the target group been described in detail and should they produce the planned number of targeted youth? (0-50 pts.) _____
Comments: _____

7. Will the proposer utilize referral agreements with other organizations to refer target group members to the program and are these agreements documented? (0-30 pts.) _____
Comments: _____

8. Have the outreach and recruitment activities that the proposer will use to identify employers on municipal, nonprofit, or private sector worksites been described in detail and should they meet the need? (0-70 pts.) _____
Comments: _____

9. Have program specific orientation information and materials that will be provided to participants been described in detail and will they be sufficient to inform participants about the specifics of this program? (0-25 pts.) _____
Comments: _____

10. Have the attendees and the manner in which the orientation will be conducted been described in sufficient detail? Does the orientation encompass the appropriate individuals and will it be effective? (0-30 pts.) _____
Comments: _____

11. Have the assessment process, as described in the RFP, factors that will be utilized and assessment tools

that will be utilized been described in sufficient detail to determine whether or not an individual is appropriate for the proposed program? (0-50 pts.) _____

Comments: _____

12. Has the process to complete the Individual Service Strategy been described in sufficient detail to determine its effectiveness, will it be effective, and is it linked to one or more of the performance goals? (0-50 pts.) _____

Comments: _____

13. Has the process to establish three (3) goals for each participant based on the assessment results been described in sufficient detail to determine its effectiveness, will it be effective and are the goals linked to the performance goals? (0-50 pts.) _____

Comments: _____

14. Have the activities/services been described in sufficient detail and do they tie into the specifications outlined in the RFP and support the goals of the RFP? (0-250 pts.) _____

Comments: _____

15. Has the case management system been described in sufficient detail to determine whether or not comprehensive guidance and counseling will be provided to program participants? Will comprehensive guidance and counseling be provided to program participants? (0-75 pts.) _____

Comments: _____

16. Are the occupations being targeted appropriate and will the described employer recruitment methods result in sufficient employer participation and engagement for this program? (0-75 pts.) _____
Comments: _____

17. Has the proposer included any awards, non-WIOA funded incentives, and or, recognition ceremonies, and is there documentation that the organizations identified as funding these items have agreed to do so? (0-20 pts.) _____
Comments: _____

18. Has the proposer included any WIOA funded incentives and, if so, has the rationale and method for awarding the incentives and the proposed incentives been described in detail? (0-20 pts.) _____
Comments: _____

19. Has the tutoring, study skills training and instruction, occupational skill training and leadership development activities been described in detail and have curriculum been attached? Does the curriculum seem appropriate for the target group? (0-150 pts.) _____
Comments: _____

20. If the program plans to offer stipends/wages has their source and the conditions under which payment will be made been described? Do the stipends/wages, their source and the conditions under which payment will be made seem appropriate for the target population? (0-40 pts.) _____
Comments: _____

- Bonus Points (75 pts.): for programs that offer stipends/wages from non-WIOA funds:**
Comments: _____

-
21. Have adult mentoring activities including when they will occur and how mentors will be identified been described? Are the activities appropriate for the target population? Did the proposer present a method of identifying adult mentors which will produce the appropriate number of mentors that will be needed by the program? Are mentoring activities available throughout the calendar year? (0-100 pts.) _____
Comments: _____

22. Has the proposer described paid and unpaid work experience that have as a component academic and occupational education? (0-75 pts.) _____
Comments: _____

23. Has the proposer described the financial literacy education that will be provided? Was a curriculum attached? Did the proposer describe when and where it would take place? Is the financial literacy education appropriate and effective for the target audience? (0-75 pts.) _____
Comments: _____

24. Has the proposer described the entrepreneurial skills training that it will provide; attached a curriculum; described when and where it will take place? Is the training appropriate for the target audience? (0-75 pts.) _____
Comments: _____

25. Has the proposer described the labor market and employment information about in-demand industry occupations in the local area that it will provide? Does the proposer include career awareness career counseling and career exploration services? Is the information sufficient to assist youth in making career choices? (0-75 pts.) _____

Comments: _____

26. Has the proposer planned to offer activities that help youth transition to postsecondary education and training? Do they appear effective and appropriate for the target population? (0-75 pts.) _____

Comments: _____

27. Has the proposer planned to offer education with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster? Will the planned education be effective? (0-75 pts.) _____

Comments: _____

28. Are the follow-up services described; are they offered for twelve (12) months after the individual exits the program; and are they sufficient to ensure that each participant will receive comprehensive guidance, counseling and support services for twelve (12) months after he/she exits the program? (0-75 pts.) _____

Comments: _____

29. Has the process for identifying a participant's need for support services, the sources to provide the support services and the referral process been described? Are they appropriate for the target population? Have agreements and/or subcontracts been attached if these support services are going to be provided by groups other than the proposer(s)? (0-75 pts.) _____

Comments: _____

30. Has the proposer described how it will ensure that all program elements will be offered as appropriate to the needs of the individual? Does this description seem

to ensure that all program elements will be available as needed? (0-75 pts.) _____

Comments: _____

31. Has the proposer described how program participants will be familiarized with the information and services available at Career Opportunities? Has the proposer included an orientation to Career Opportunities in the proposal? (0-75 pts.) _____

Comments: _____

32. Have the staff involved in the program been described? Have job descriptions (including required related experience and training) been included for each position funded by this proposal? Do all of the staff that have been described seem necessary? Do job descriptions seem appropriate? Have resumes been included for existing staff? (0-75 pts.) _____

Comments: _____

33. Has the staff selection process been described and does it seem appropriate? (0-20 pts.) _____

Comments: _____

34. Has the teacher to student ratio and counselor to participant ratio been described and is it appropriate? (0-30 pts.) _____

Comments: _____

35. Have copies of staff licenses or certificates been attached where appropriate? (0-15 pts.) _____

Comments: _____

36. Have partnerships/collaborations established for this project been described including who is involved; in-

kind services being made by partners/collaborators; and each partner's/collaborator's roles and responsibilities? Do they seem appropriate for the program design? (0-100 pts.) _____

Comments: _____

Bonus points (100-150 pts.) will be given for proposals which include three (3) or more partners/collaborators who will make significant contributions to the proposed program. For three (3) partners/collaborators 100 bonus points will be awarded; for four (4) partners/ collaborators 125 bonus points will be awarded; for five (5) or more partners/collaborators 150 bonus points will be awarded: _____

Comments: _____

37. If the proposal contains a partnership/collaboration, has the lead fiscal agency been identified? (0-25 pts.) _____

Comments: _____

38. If the proposal contains a partnership/collaboration, have copies of Partnership/Collaborative Agreements and required documents/certifications been attached? (0-100 pts.) _____

Comments: _____

39. Has the proposer described the organization(s) that are part of this proposal including administrative capacity, length of existence, strengths and weaknesses? Has the proposer attached an organizational chart? (0-50 pts.) _____

Comments: _____

40. Has the proposer described the records that will be kept; where they will be kept and the willingness to provide access to these records? (0-25 pts.) _____
Comments: _____

41. Has the proposer described the disciplinary policy for participants and how disciplinary actions will be documented? (0-40 pts.) _____
Comments: _____

42. If the proposer plans to subcontract with others for services or activities contained in their proposal, has the nature of the subcontracts, the subcontractor and the services and activities to be provided by the subcontractor been described? Are these services and activities appropriate for subcontract? Does the subcontractor appear appropriately qualified to provide these services and activities? (0-90 pts.) _____
Comments: _____

43. Has the proposer described the facilities to be used for activities and/or services? Are they appropriate for the activities and/or services which will occur there and are they ADA compliant? Are laboratories for hands on training available if needed? (0-75 pts.) _____
Comments: _____

44. Have letters of intent been provided for any facilities not personally contracted for by the proposer? (0-25 pts.) _____
Comments: _____

45. Has the proposer's plans for transporting youth on a daily basis (if necessary) and to special events been described? Do they appear feasible? Do the steps the

proposer will take to ensure that licensed and bonded carriers will be used seem appropriate? (0-30 pts.) _____

Comments: _____

46. Has an implementation timeline been attached and does it appear to be appropriate to ensure timely program delivery? (0-70 pts.) _____

Comments: _____

47. If the proposer has been previously funded during FY2017, did they meet their enrollment goals. (0-50 pts.) _____

Comments: _____

48. Have the budget sheets been completed properly and costs transferred to the budget summary sheet? (0-50 pts.) _____

Comments: _____

49. Have the costs paid by WIOA funds and costs paid by matching funds from other sources been described so that the reviewer can obtain a clear understanding of how costs have been derived and how costs will be paid by various funds/funding sources? (0-100 pts.) _____

Comments: _____

Bonus points (125 pts.) will be given for proposals which significantly leverage additional funds for program activities and services for program participants. For proposals which leverage one non-WIOA dollar for each WIOA dollar requested, 75 bonus points will be awarded; for proposals which leverage two non-WIOA dollars for each WIOA dollar requested, 100 bonus points will be awarded; and for proposals which leverage three or more non-WIOA dollars for each WIOA dollar requested, 125 bonus points will be awarded.

50. Has the proposer described how program costs were derived by providing a narrative explanation of each line item and do these costs seem necessary and reasonable? (0-200 pts.) _____

Comments: _____

51. Has the proposer budgeted 20% of the program funds for work experience? (0-200 pts.) _____

Comments: _____

Total Points _____

The total number of points a proposal can receive with bonus points is 3,890. A proposal can receive up to 500 in bonus points. A proposal must receive at least 2,723 total points (combination of regular points plus bonus points) in order to be considered for funding.

SAMPLE SOLICITATION PUBLICATION NOTICE

The Job Training and Employment Corporation on behalf of the Cape and Islands Workforce Development Board expects to release a Request for Proposal (RFP) on or about (insert date) soliciting offers to provide the following services:

(specify services to be provided and available funding)

Interested parties should contact the Quality Assurance Specialist at 508-790-0400, ext. 162 or write to the Quality Assurance Specialist, Job Training and Employment Corporation, 88 North Street, Hyannis, MA 02601, to be placed on the mailing list for the RFP. In addition, all prospective bidders must attend the bidder's conference scheduled as follows:

Date: _____

Time: _____

Place: _____

Proposals in response to the RFP must be submitted by (specify date).

Proposal Log for _____

[illegible]

FY _____ PROGRAM EVALUATION TEAM SCORING CHART

[illegible]

FY ____ PROGRAM FUNDING RECOMMENDATIONS

PROPOSAL NAME	PROPOSED NUMBER OF _____ TO BE SERVED	PROGRAM DESCRIPTION	AMOUNT REQUESTED	AVERAGE SCORE	RECOMMENDATIONS
<p>AN AVERAGE SCORE OF _____ OR GREATER IS REQUIRED FOR FUNDING</p>					

Program Fact Sheet

Program Name:

Contractor:

Contact Person:

Target Population:

Number of Trainees per Cycle:

of Cycles:

Total:

Entry Criteria:

Cycle Duration:

Cost Per Cycle:

Cost Per Participant:

Cost Per Entered Employment:

Cost Per Youth Positive Termination:

Cost Per Instructional Hour:

Cost Per Instructional Hour Per Participant:

Total Budget:

Type of Contract Requested:

Funding Source:

Dates of Operation:

Program Description:

Past Performance History (funding level, enrollments, EE rate, etc.):

Evaluation Committee Recommendations:

PRICE ANALYSIS

Attachment V

Solicitation: _____

Offeror: _____

Part I - General

- | | | | |
|----|---|------------|-----------|
| 1. | Proposed price is for off-the-shelf package of tuition-based training. | <u>Yes</u> | <u>No</u> |
| 2. | If yes to 1 above, was verification of price reasonableness made by checking offeror catalog or price list? | <u>Yes</u> | <u>No</u> |
| 3. | If yes to 2 above, give date of catalog or price list | _____ | |
| 4. | Verification _____ | _____ | |
| 5. | Was discount offered? | <u>Yes</u> | <u>No</u> |
| 6. | Will discount be sought? | <u>Yes</u> | <u>No</u> |

Part II - Primary Comparison (with other offerors to this RFP)

	This Offeror	Offeror 2 Name	Offeror 3 Name	Offeror 4 Name
1. Price per participant	\$ _____	\$ _____	\$ _____	\$ _____
2. Price per employment (or further education if a youth)	\$ _____	\$ _____	\$ _____	\$ _____
3. Total price	\$ _____	\$ _____	\$ _____	\$ _____
4. Price per instruction hr.	\$ _____	\$ _____	\$ _____	\$ _____
5. Price per participant/instruction hr.	\$ _____	\$ _____	\$ _____	\$ _____

Note: In using past offers on contracts, be sure that past prices were competitive and evaluations reasonable

Part III - Secondary Comparison (with previous contractors)

	This Offeror	Past Contractor (____)	Past Contractor (____)	Past Contractor (____)
1. Price per entered employment (further training of youth)	\$ _____	\$ _____	\$ _____	\$ _____
		Dates of Contract	Dates of Contract	Dates of Contract
2. Total contract price	\$ _____	\$ _____	\$ _____	\$ _____
3. Number of participants	_____	_____	_____	\$ _____

Note: In using past offers on contracts, be sure that past prices were competitive and evaluations reasonable

Part IV - Narrative

1. Give a brief narrative judgement about reasonableness of offeror's proposed prices. Justify your judgement. If you developed an independent agency cost estimate, describe how offer's proposed prices compared to your estimate.
- _____
- _____
- _____

2. If price proposed is too high, develop new price objectives for negotiations and justify

A. Proposed new price: \$ _____ \$ _____

B. Rationale: _____

Part V - Signatures _____

Signature

Date

SAMPLE COST ANALYSIS

Solicitation: _____

Offeror: _____

Part I - General

	Yes	No
1. Offeror computations checked & verified	_____	_____
Problems/Comments _____		

2. All necessary cost elements included	_____	_____
Problems/Comments _____		

3. Offeror supporting documentation and justification complete	_____	_____
Problems/Comments _____		

4. WIOA categorization (program, administration)	_____	_____
Correctly categorized	_____	_____
Need more information	_____	_____
Problems/Comments _____		

Part II - Specific Costs

Cost
Element

Necessary/
Reasonable

Basis for Judgement
(check one or more)

1. Salaries
and Wages

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

Independent agency estimate _____
Compared/other current offers _____
Compared/past offers _____
Verified market price or quote _____
Other (specify) _____

Comments/Concerns/Problems _____

2. Fringe
Benefits
(for tax-based
elements, be
sure that rates
& bases are
current)

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

Independent agency estimate _____
Compared/other current offers _____
Compared/past offers _____
Verified market price or quote _____
Other (specify) _____

Comments/Concerns/Problems _____

3. Travel and
Transportation

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

Independent agency estimate _____
Compared/other current offers _____
Compared/past offers _____
Verified market price or quote _____
Other (specify) _____

Comments/Concerns/Problems _____

4. Non-Expendable
Equipment

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

Independent agency estimate _____
Compared/other current offers _____
Compared/past offers _____

Verified market price or quote _____
Other (specify) _____

Comments/Concerns/Problems _____

5. Equipment Yes No
 Rental ☐ ☐

Independent agency estimate _____
Compared/other current offers _____
Compared/past offers _____
Verified market price or quote _____
Other (specify) _____

Comments/Concerns/Problems _____

6. Premises Yes No
 ☐ ☐

Independent agency estimate _____
Compared/other current offers _____
Compared/past offers _____
Verified market price or quote _____
Other (specify) _____

Comments/Concerns/Problems _____

7. Insurance/
 Bonding Yes No
 ☐ ☐

Independent agency estimate _____
Compared/other current offers _____
Compared/past offers _____
Verified market price or quote _____

Other (specify) _____

Comments/Concerns/Problems _____

8.	Communications	<u>Yes</u>	<u>No</u>	Independent agency estimate	_____
		<input type="checkbox"/>	<input type="checkbox"/>	Compared/other current offers	_____
				Compared/past offers	_____
				Verified market price or quote	_____
				Other (specify)	_____

Comments/Concerns/Problems _____

9.	Fees	<u>Yes</u>	<u>No</u>	Independent agency estimate	_____
		<input type="checkbox"/>	<input type="checkbox"/>	Compared/other current offers	_____
				Compared/past offers	_____
				Verified market price or quote	_____
				Other (specify)	_____

Comments/Concerns/Problems _____

10.	Expendable Supplies	<u>Yes</u>	<u>No</u>	Independent agency estimate	_____
		<input type="checkbox"/>	<input type="checkbox"/>	Compared/other current offers	_____
				Compared/past offers	_____
				Verified market price or quote	_____
				Other (specify)	_____

Comments/Concerns/Problems _____

11. Development and Training Yes ☐ No ☐
- Independent agency estimate _____
 Compared/other current offers _____
 Compared/past offers _____
 Verified market price or quote _____
 Other (specify) _____

Comments/Concerns/Problems _____

Part III - Profit/Fee

1. Offeror is (check one)
- | | | |
|--|-------------------|-------------------|
| | <u>For-Profit</u> | <u>Non-Profit</u> |
|--|-------------------|-------------------|
2. If non-profit, no profit allowable.
3. If for-profit, amount of profit proposed
- | | |
|----------------------------------|----------|
| | \$ _____ |
| Profit as % of total other costs | _____ % |
4. Profit is (check one)
- | | |
|-------------------|--------------------------------------|
| <u>Reasonable</u> | <u>Not Reasonable/
Excessive</u> |
|-------------------|--------------------------------------|

5. If profit is deemed reasonable, describe basis for judgement (e.g., agency profit guidelines; application of profit guidelines; other)
- _____
- _____
- _____
- _____

6. If profit is deemed excessive, list profit objective
(% or dollar amount to be negotiated)

Part IV - Conclusions

Prepare a brief narrative citing:

- 1) Specific additional cost justifications needed;
- 2) Recommended adjustments to specific cost elements; and
- 3) Any other comment about cost/price proposal
(use another sheet of paper, if additional writing space is needed)

Part IV - Signature (s)

Signature

219

Date

Signature

Date

Signature

Date

Signature

Date

Signature

Date

Signature

Date

Signature

Date

Signature

Date

Signature

Date

MASSACHUSETTS WORKFORCE DEVELOPMENT SYSTEM

Mass Workforce Issuance

100 DCS 01.102

☒ Policy☐ Information

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

cc: WIOA State Partners

From: Alice Sweeney, Director
Department of Career Services

Date: May 12, 2016

Subject: Procurement and Contracting

Purpose: To provide policy guidance to Local Workforce Development Boards (LWDB), One-Stop Career Center Operators and other local workforce investment partners with respect to the Commonwealth's policy regarding procurement and contracting requirements.

Background: The federal government has established standards for procurement and contracting to ensure that federally funded programs obtain goods and services in the most cost effective manner. These standards also ensure open and fair competition for all prospective providers.

Policy: This Policy outlines the requirements for procurement and contracting for all funds provided through the Department of Career Services (DCS), including, but not limited to, Workforce Innovation and Opportunity Act (WIOA). Attachments provide guidelines for developing and conducting solicitations, contracting and monitoring of contracts, and checklists for procurement and contract files.

Action Required: All LWDBs and Program Operators must develop a local policy in compliance with state policy (contained in pages 1 through 12). The Attachments to this policy are provided for guidance. LWDBs and Program Operators may choose to adopt these guidelines and incorporate them into their policies.

An equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.
TDD/TTY 1-800-439-2378 - Voice 1-800-439-6183

Those Governmental entities and other organizations subject to more restrictive state or local procurement thresholds and requirements, e.g., Massachusetts General Laws Chapter 30B, must comply with the more restrictive policy.

Effective: Effective immediately for all federally funded programs administered by DCS.

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

References: 2 CFR Part 200.317-200.326
MGL Chapter 30B
MGL Chapter 268A Massachusetts Conflict of Interest Law
Sections 8301-8303 of Title 41 (Buy American Act)
Environmental Protection Agency (EPA at 40 CFR Part 247)
6002 of the Solid Waste Act
Federal Acquisition Regulation (FAR) at 48 CFR Subpart 2.1
Wagner Peyser Act 29 U.S.C 49 et seq.

TABLE OF CONTENTS

PROCUREMENT	PAGE #
A. Introduction	4
B. Procurement Standards	4
C. Competition	6
D. Methods of Procurement to be Followed	7
I. Competitive Procurement	7
II. Non-Competitive Procurement	9
E. Authority to Take Procurement Action	10
F. Procurement Documentation	10
G. Federal Awarding Agency or DCS Review	11
CONTRACTING	
A. Contracting with Small and Minority Firms, Women's Business Enterprises and Labor Surplus Area Firms	12
B. Procurement of Recovered Materials	12
C. Contract Cost and Price	12
D. Awarding Agency Review	13
ATTACHMENT A – PROCUREMENT FILE CHECKLIST	14
ATTACHMENT B – CONTRACT FILE CHECKLIST	15
ATTACHMENT C – GUIDANCE ON DEVELOPMENT OF FORMAL SOLICITATIONS AND THE STATEMENT OF WORK (SOW)	
A. Solicitations	16
I. Request for Qualifications (RFQ)	16
II. Invitation for Bids (IFB)	18
III. Request for Proposals (RFP)	19
B. Statement of Work	20
C. Review/Evaluation of Solicitations	21
D. Receipt of Proposals	21
E. Technical Evaluation (Including Cost/Price Analysis)	22
ATTACHMENT D – GUIDANCE ON CONTRACTING	
A. Contract Negotiation and Award	26
B. Selection of Contract Type	26
C. Contract Elements	27
D. Contract Administration	29
E. Contract Monitoring	30
F. Contract Corrective Action	31
G. Contract Close-Out	31

PROCUREMENT

A. Introduction

When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with §200.322 Procurement of recovered materials and ensure that every purchase order or other contract includes any clauses required by section §200.326 Contract provisions. All other non-Federal entities, including subrecipients of a state, must follow paragraphs (B) through (G) of this policy.

B. Procurement standards

- (1) Grantees and subgrantees must use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.
 - (2) Grantees and subgrantees must maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
 - (3) Grantees and subgrantees must maintain a written code of standards of conduct governing the performance of their employees engaged in the selection, award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in any way (including discussion, review and/or voting) in the selection, or in the award or administration of a contract supported by Federal or State funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:
 - (i) The employee, officer or agent,
 - (ii) Any member of his immediate family,
 - (iii) His or her partner, or
 - (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value, based on the Commonwealth's Ethics Rules. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantees and subgrantees, officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.
- In addition:
1. A State Board member or a Local Board member must neither cast a vote on, nor participate in any decision-making capacity, on the provision of services by such member (or any organization which that member directly represents), nor on any matter which would provide any direct financial benefit to that member or a member of his/her immediate family. Neither membership on the State Board, the Local Board nor the receipt of WIOA funds to provide training and related services, by itself, violates these conflict of interest provisions.
- (4) None of the funds made available under title I or II or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) may be expended by a grantee or subgrantee unless the grantee or subgrantee agrees that in expending the funds the grantee or subgrantee will comply with sections 8301 through 8303 of title 41, United States Code (commonly known as the "Buy American Act").

- (5) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
- (6) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.
- (7) Grantees and subgrantees are encouraged to use Federal excess/surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
- (8) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.
- (9) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
- (10) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to, the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- (11) Grantees and subgrantees will use time and material type contracts only--
 - (i) After a determination that no other contract is suitable, and
 - (ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.
- (12) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.
- (13) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the state or Federal agency. Reviews of protests by the Federal agency will be limited to:
 - (i) Violations of Federal law or regulations and the standards of 2CFR Part 200.317 (violations of State or local law will be under the jurisdiction of State or local authorities) and
 - (ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

C. Competition

The Procuring Entity must establish procurement procedures which promote and maximize the competitive procurement process. At a minimum, the procurement process must:

- a. appropriately target resources based on approved job training plans;
 - b. be made impartially and at "arms-length";
 - c. be based upon demonstrated performance;
 - d. include a determination of cost/price reasonableness;
 - e. be in compliance with all related federal and state laws, regulations and policy.
- (1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of §200.319. Some of the situations considered to be restrictive of competition include but are not limited to:
- i. Placing unreasonable requirements on firms in order for them to qualify to do business,
 - ii. Requiring unnecessary experience and excessive bonding,
 - iii. Noncompetitive pricing practices between firms or between affiliated companies,
 - iv. Noncompetitive awards to consultants that are on retainer contracts,
 - v. Organizational conflicts of interest,
 - vi. Specifying only a "brand name" product instead of allowing an "equal" product to be offered and describing the performance of other relevant requirements of the procurement, and
 - vii. Any arbitrary action in the procurement process.
- (2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference.
- (3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all formal solicitations:
- (i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and
 - (ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
- (4) Grantees and subgrantees will ensure that all pre-qualified lists of persons, firms, or products which are used in acquiring goods and services are current and include sufficient qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

D. Methods of procurement to be followed—

The method of procurement to be followed is dependent on the threshold levels as listed below. The non-Federal entity must use one of the following methods of procurement.

Threshold Levels

NOTE: Governmental entities and other organizations subject to more restrictive state or local procurement thresholds and requirements, e.g., MGL Chapter 30B, must comply with the more restrictive policy.

a. Goods and services \$3,500 or less (Micro-purchase)

Procurement within this threshold is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (\$3,500). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

b. Goods and services \$3,501 to \$150,000 (Small Purchase)

For Procurements within this threshold, small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold (\$150,000). The Procuring Entity's written procedural guidance must ensure documentation of price or rate quotes, procurement method and justification for the selection from among an adequate number of competitive providers.

c. Goods and services above \$150,000 (Simplified Acquisition Threshold)

Procurements at this threshold level are subject to formal bid/proposal solicitation requirements.

I. Competitive Procurement

Procurement transactions should be conducted to ensure adequate competition and reasonable price. Non-competitive procurement should be used only in the circumstances outlined below in Section II, Non-Competitive Procurement.

- (1) Procurement by Micro-purchase procedures. Micro-purchase procedures is the purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold (\$3,500). Micro-purchase procedures comprise a subset of a grantee's and subgrantee's small purchase procedures. The grantee and subgrantee uses such procedures in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and cost. The micro-purchase threshold is set by the Federal Acquisition Regulation (FAR) at 48 CFR Subpart 2.1. It is \$3,500 except as otherwise discussed in Subpart 2.1 of that regulation, but this threshold is periodically adjusted for inflation.
- (2) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold set by the Federal acquisition Regulation (FAR) at 48 CFR Subpart 2.1 (currently set at \$150,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

- (3) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (i) of this section apply.
- (i) In order for sealed bidding to be feasible, the following conditions should be present:
 - (A) A complete, adequate, and realistic specification or purchase description is available;
 - (B) Two or more responsible bidders are willing and able to compete effectively and for the business; and
 - (C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
 - (ii) If sealed bids are used, the following requirements apply:
 - (A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;
 - (B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
 - (C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;
 - (D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
 - (E) Any or all bids may be rejected if there is a sound documented reason.
- (4) Procurement by competitive proposals (e.g., Request for Proposals). The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
- (i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
 - (ii) Proposals will be solicited from an adequate number of qualified sources;
 - (iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;
 - (iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
 - (v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.
- (5) Request for Qualifications. The process of a Request for Qualifications is a two part. First, a formal solicitation is issued to obtain submissions from contractors. These submissions are then reviewed and a list of contractors qualified to provide the goods or services required is developed. The second stage of the process is the comparison of two or more qualified providers to determine which will be chosen to provide the goods or services.

Individual Training Accounts. The process of choosing a provider to train a participant through an Individual Training Account is an exception to the RFQ process. Please refer to Policy 100 DCS 14.100 Massachusetts Eligible Training Provider List (MA ETPL) Initial and Subsequent Eligibility Process" located on MassWorkforce.org: <http://www.mass.gov/massworkforce/issuances/wioa-policy/14-training/>

II. Non-Competitive Procurement

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

- (A) The item is available only from a single source;
- (B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (C) The awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request; or
- (D) After solicitation of a number of sources, competition is determined to be inadequate or a failed competition, where the solicitation has resulted in fewer than two responsive and responsible bids.

When a Procuring Entity conducts a formal solicitation process and receives only one qualified proposal, the award process must be justified and documented. A Failed Competition Analysis must be performed.

Failed Competition Analysis

Program Operators/Service Providers should address the following questions:

1. Was there a weakness in the solicitation specifications?
 - a. Was the statement of work clear?
 - b. Was the statement of work too narrowly defined?
 - c. Were the administrative requirements too cumbersome?
 - d. Was there an excessive amount of experience required?
 - e. Was the cost the entity was willing to pay too low?
 - f. Was there adequate time to prepare proposals?
2. Was the solicitation advertised in an adequate number of locations?
3. Are the services/training being sought really only available from one offeror?

Prior to awarding the contract, the procuring entity must address these issues and document that the process was not flawed and that in fact only one vendor can provide the services being sought, a cost/price benefit analysis must be completed prior to awarding the contract.

Prior written approval by DCS must be obtained for any actual sole source or emergency/exigency award which is in excess of \$150,000. All such awards must be justified and documented. Requests for approval must include the following information:

- a. copy of the offerors proposal
- b. copy of the cost/price analysis
- c. copy of related WDB meeting discussion minutes
- d. copy of the non-competitive/award justification
- e. cover letter requesting approval

f. failed competition analysis

Such awards will not be approved retroactively.

Although such awards in an amount below \$150,000 need not be submitted to DCS for approval, procuring entity must internally document and justify these awards below this level.

Such procurements which initially do not require DCS approval, but which are to be modified to an amount which exceeds \$150,000, must be submitted for DCS approval prior to the execution of the modification.

Failure to obtain required prior approvals may result in questioned costs.

Frequency of Solicitations

Solicitation shall occur at a minimum every two years to promote and encourage competition. Solicitation of Audit services shall occur at a minimum of every five years. Multi-year funding of contractors must be consistent with the conditions of the approved RFP and award. In addition, subsequent year funding is to be retained as the option of the procuring entity only and must be subject to successful performance and formal, documented contract negotiations.

E. Authority to Take Procurement Actions

The procurement policy and procedural guidance must identify the positions of individuals in the organization that have the authority to:

1. Allocate funds to procure services
2. Approve procurement plans
3. Approve non-competitive and sole-source procurements
4. Approve the issuance of the solicitation package
5. Approve the selection of contractors or service providers
6. Sign contracts (the policy must include appropriate certification by the municipality or Board of Directors that this individual has legal authority to sign contracts and must be consistent with the signatory on file at DCS)
7. Approve and sign contract modifications
8. Issue notices of contract termination

Where individuals of the procuring entity have joint responsibility to approve contract actions, the procurement policy must delineate and describe respective roles and authority. Authorizations should be reviewed on an annual basis and revised, if necessary.

F. Procurement Documentation

Procuring Entity Procuring entity policy and written procedural guidance shall require the maintenance of organized and centralized procurement files. Procedures shall require files to contain sufficient documentation to track the significant history of each procurement. Files shall contain all documentation related to that procurement including, but not limited to: procurement planning records, the solicitation, notices of public advertisement, bidder's conference minutes, all proposals submitted with records of their receipt, all proposal evaluation documentation (including sign-off and certifications), all proposal negotiation documentation, and all related meeting/committee minutes to document the contract(s) review, evaluation and award. A Sample Procurement File Checklist is contained in Attachment A.

G. Federal Awarding Agency or DCS Review

- a) The grantee must make available, upon request of the Federal awarding agency or DCS, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or DCS may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.
- b) The grantee must make available upon request, for the Federal awarding agency or DCS pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:
 - 1) The grantee's procurement procedures or operation fails to comply with the procurement standards in this part;
 - 2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
 - 3) The procurement, which is expected to exceed the Simplified Acquisition threshold specifies a "brand name" product;
 - 4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
 - 5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.
- c) The grantee is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or DCS determines that its procurement systems comply with the standards of this part.
 - 1) The grantee may request that its procurement system be reviewed by the Federal awarding agency or DCS to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis.
 - 2) The grantee may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the grantee that it is complying with these standards. The grantee must cite specific policies, procedures, regulations or standards as being in compliance with these requirements and have its system available for review.

CONTRACTING

A. Contracting with small and minority firms, women's business enterprises and labor surplus area firms

- 1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.
- 2) Affirmative steps shall include:
 - (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
 - (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
 - (v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
 - (vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in this section.

B. Procurement of recovered materials

The grantee and subgrantee that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

C. Contract cost and price

- 1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition threshold, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of its estimated cost, e.g., under professional, consulting, and architectural engineering services contracts, or whenever a line item budget is submitted. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.
- 2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality

of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

- 3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles.
- 4) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.
- 5) All procurement contracts between Local Boards and units of State or local governments must be conducted on a cost reimbursement basis. No provision for profit is allowed.

D. Awarding agency review

DCS will review each WDB/Program Operator's procurement system during the annual monitoring and at other times as it deems necessary to determine whether the system meets these standards in order for the system to be certified. For construction or facility improvements, DCS prior approval must be obtained.

ATTACHMENT A
PROCUREMENT FILE CHECKLIST

Solicitation Name/Type: _____ Total Funding: \$ _____

Funding Source: _____ Funding Period: _____

- _____ Procurement Planning Records (meeting minutes, etc.)
- _____ Copy of Solicitation Document (RFP, RFQ, IFB)
- _____ Original Public Notice(s)/Ad(s) (tear sheets)
- _____ Copy of Solicitation Mailing List(s)
- _____ List of Entities which requested a proposal
- _____ Records of Bidders Conference Attendance
- _____ Minutes from Bidders Conference
- _____ Copy(s) of Q & A's sent to proposers
- _____ Copy(s) of amendments to solicitation
- _____ Log of proposals submitted
- _____ Copies of proposals submitted (with date stamp & time)
- _____ Minutes of Review team/committee meeting(s)
- _____ Signed proposal rating sheets
- _____ Cost/Price analysis documentation
- _____ Signed review team non-conflict statements
- _____ Written recommendations of review team/committee
- _____ Documentation of proposal/contract negotiation(s)
- _____ Amended/Last and Final Proposals
- _____ Misc. proposal clarification documents/correspondence
- _____ Minutes of Award/Selection meetings and votes
- _____ Copies of Approval/Award/Rejection letters
- _____ Required certifications (debarment & suspension, etc.)

ATTACHMENT B
CONTRACT FILE CHECKLIST

Contract Name: _____

Contractor: _____

Contract Number: _____ Contract Amount: \$ _____

Contract Period: _____

Funding Source: _____

- _____ Signed/Executed copy of the contract
- _____ Signed copy(s) of subsequent contract modifications
- _____ Contract/Mod. cost/price analysis & justification
- _____ Proposal or other documents incorporated by reference
- _____ Required certifications (debarment & suspension, etc.)
- _____ Pre-award surveys or other review data
- _____ Copy(s) of contract negotiation data
- _____ Subcontract/sub-agreement approval documentation
- _____ Copy(s) of required insurance/bonds
- _____ Copy(s) of Agency/Contractor correspondence
- _____ Monitoring Reports/Corrective Actions/Follow-up documents
- _____ Invoice/billing records of payment
- _____ Records of cash advances/on-hand and liquidation of funds
- _____ Property/Equipment acquisition and disposition records
- _____ Documentation of Termination actions
- _____ Contractor report(s) of deliverables provided
- _____ Contract Close-out/Cash settlement/Program Income Reports
- _____ Copies of required audit reports/review & resolution

ATTACHMENT C

GUIDANCE ON DEVELOPMENT OF FORMAL SOLICITATIONS AND THE STATEMENT OF WORK (SOW)

This Attachment contains information on the development of formal solicitations and the statement of work. WDBs/Program Operators may utilize this in lieu of developing their own procedures.

A. SOLICITATIONS

The solicitation is the document that the Procuring Entity issues to elicit offers from proposers or bidders. The formal solicitation (RFQ, IFB, RFP) is the document that invites offers from potential service providers.

I. Request For Qualifications (RFQ)

In an RFQ process, proposals are solicited from qualified sources by formally advertising in local newspapers and sending out the RFQ to the potential contractors/service providers selected from the inventory of providers. Proposals are received, evaluated and those potential providers who qualify are placed on the approved providers' list. To be accepted as a viable procurement vehicle, all provider lists must be current and include a sufficient number of qualified sources. Services are then selected utilizing a specific rationale (price comparison, demonstrated performance, etc.) established for final selection from the approved contractor list (see Competitive Procurement). This is an acceptable method for the procurement of Individual Training Services.

If the Procuring Entity finds that it did not necessarily reach all potential offerors, it may send out the RFQ specifications to other potential providers after the providers' list has been established and augment the list if subsequent providers meet the same evaluation criteria.

1. Notice of Request for Qualifications

The notice should, at a minimum, briefly summarize all important information regarding the RFQ including:

- ♦ Name and address of entity issuing the RFQ;
- ♦ Name, address, title and phone number of person to contact regarding questions;
- ♦ How to obtain the RFQ Specifications;
- ♦ Response due date and time deadlines;
- ♦ Number of copies of response;
- ♦ Period for which services are sought (could be Program Year);
- ♦ Specify location and method of delivery of response;
- ♦ Other stipulations and clarifications as required;
- ♦ Statement concerning Equal Opportunity Employer; and
- ♦ Description of provider's organization and type of services generally provided.

2. RFQ Specifications

a. Introductory Information

The RFQ package may include an introductory section covering general explanatory information to clarify any special points or items of interest. For example, this section could be used to discuss providers' conference meeting plans, procedures and general information on evaluation of proposals, how contractors will get on the approved providers' list, etc.

b. Nature of the Services Being Sought

This section should describe the services being requested. While a single provider may offer a range of courses, it is not likely to be equally competitive in each, particularly in terms of demonstrated performance. Each program offered by the provider should be evaluated separately.

c. Cost

Potential service providers/contractors should submit a cost which is non-rescindable. Potential service providers who do not have an "off-the-shelf" price must submit a line item cost basis for the training which includes training, any related costs in providing the training and overhead costs.

Potential contractors may submit an "off-the-shelf"/tuition based single unit charge for services if the services are sold to the general public in the course of normal business operations and the cost is a single charge for tuition. The price should be published in a catalog or price list describing the course.

d. Technical Proposal

Offerors who submit proposals which are not "off-the-shelf"/tuition based single unit charges should be required to provide the following information:

- 1) Their qualifications to provide the services,
- 2) A description of their background and experience with the services for which bids are being provided,
- 3) Information as to the size and structure of the offeror's organization,
- 4) Positive affirmations that offeror has all the required licenses to perform the services being sought,
- 5) Offerors should provide a statement of their understanding of the services to be provided, including time and cost, and
- 6) A statement of their refund policy.

e. Evaluation of Qualifying Proposals

WDBs/Program Operators/Service Providers must include criteria for offerors to be placed on the providers' list. Such criteria should include, but are not limited to the following:

- 1) Offeror's qualifications and experience in providing the services/training
- 2) Frequency of training/services offered
- 3) Demonstrated performance
- 4) Cost/Price

Additional Criteria Suggested:

- 5) Geographic Location(s), including a description of public transportation, if available
- 6) Size of firm/capacity

WDBs/Program Operators/Service Providers should describe the process of notification to successful and unsuccessful offerors, should also inform successful offerors that while they may have been placed on the providers' list, they will not automatically be awarded contracts when the need arises. The RFQ should contain the selection procedures of the Procuring Entity will be utilized prior to the final negotiation/award of contracts.

f. Rationale for Final Service Selection

Written procedures should include Procuring Entity rationale, justification and documentation of final selection. This rationale must be consistently applied in the selection of each service/good selected from

the list. At a minimum, each final individual selection must consider and document price comparison and demonstrated performance. Additional factors for consideration may be indicated. To the extent that any additional considerations enter into source selection, their application should be documented.

II. Invitation for Bids (IFB)

Sealed bids (Formal Advertising) are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price. When this method is used the solicitation is called an Invitation for Bids (IFB). In this method the contracting agency awards the contract to the responsible offeror whose bid is most advantageous considering only price and price-related factors.

Content of IFB

1. Notice of Proposal

The Notice of Proposal should briefly summarize all important information regarding the IFB. It should include:

- a) Name and address of entity issuing the IFB
- b) Name, address, title and phone number of person to contact regarding questions
- c) Period for which services will be provided (Clarify if multi-year proposal)
- d) Other stipulations and clarifications as required
- e) Statement about equal opportunity employer
- f) How the entity is organized and what kind of services the entity generally provides
- g) Response due date and time deadlines with consequences of late responses
- h) Number of copies of response required
- i) Specific location and method of delivery of response
- j) Public opening of all bids at a published date and time

2. Introductory Information

The IFB package may include an introductory section covering general explanatory information to clarify any special points or items of interest. For example, this section could be used to discuss bidder's conference meeting plans and procedures and general information on the evaluation of proposals and the bid opening procedures.

3. Nature of the Services Required/Statement of Work

This section should describe the services being requested and how those services are to be provided (times and dates). This is explained in more detail in the section on the statement of work.

4. Cost/Budget

WDBs/Program Operators should include in the IFB a standard budget format with detailed support for each line item.

5. Technical Proposal

Offerors should be required to provide the following information:

1. Their qualifications to provide the services
2. A description of their background and experience with the services being sought
3. Resumes of those staff who will provide services
4. Information as to the size and organization of the offeror's firm
5. A statement of their financial capabilities
6. A copy of their most recently completed audit

7. Positive affirmations that offeror has all the required licenses to perform the services being sought
8. A statement of their understanding of the services to be provided, including time and cost.

6. Evaluation of Proposals

WDBs/Program Operators should include information in the IFB concerning the factors to be used in evaluating proposals and the process for notifying offerors as to the final outcome.

WIBs/Program Operators have the option of including who will review the proposals and the actual weights of the review criteria, if desired.

III. Request for Proposals (RFP)

The WDB/Program Operator should ensure that RFPs include:

1. **Statement of Work or Specifications.** The Statement of Work (SOW) is the document that clearly describes the services that are being acquired. (SOW requirements are addressed later in this document).
2. **A description of the requirements for time, place and methods or performance of services.** This will be included within the SOW, however, it is beneficial to state these requirements in a separate section to summarize the work to be completed with dates and places for delivery of services.
3. **Contract clauses that will be included in any resulting contract.** Standard "boilerplate" clauses should be made available to bidders. This may be accomplished by inclusion in the RFP or by information to the bidders that the boilerplate is available for review at the WDB/Program Operator.
4. **Assurances, certifications and representations.** Any assurances, certifications and representations that the bidder will be required to execute should be included in the RFP, and may require a statement from the offerors that they will comply with any regulatory requirement established by the funding source.
5. **Detailed information on how to prepare and submit the proposal.** The RFP should provide clear direction on the proposal format; the number of copies to submit; the location where the proposal should be submitted and the submission closure time and date. The RFP should also establish any minimum responsiveness requirements that must be met for a proposal to be considered.
6. **Description of how price or cost will be utilized as a factor affecting proposal awards decisions.**
7. **Criteria and evaluation developed to review proposals for award decisions.** The RFP should include a description of the criteria and evaluation to be utilized.
8. **Solicitation provisions.** The RFP should clearly state the provisions that govern the solicitation process and clearly describe how the procurement process will be managed. For example, this may include logging in of proposals, expected time frame for notification of award/non award and what appeals process is available to bidders, time frames and levels of in-house and WDB committee reviews; when the full WDB will review and vote on recommendations; etc. The RFP may also include a description of the process which will be followed if the RFP is amended, e.g., if the Bidder's conference results in clarification needed or if changes/decisions are made which affect the services being procured.
9. **Budget Instructions.** The RFP should request a full line item budget which identifies the basis for all costs by cost category, and should provide detailed instructions as to what constitutes a complete budget. A budget narrative should also be required.

10. **Summary or cover sheet.** The RFP may request a summary or cover sheet.

11. **Other.** The RFP should also include:

- a. Reservation of the Procuring Entity's right to reject any or all proposals.
- b. Statement of the proposer's rights of protest and appeal.
- c. If a competitive range or other narrowing of offerors is to be used, the decision criteria, which may include a minimum threshold, should be described.
- d. Information regarding whether amended or "best and final" proposals will be requested and evaluated.

B. STATEMENT OF WORK

The Statement of Work (SOW) is the section of the solicitation (RFQ, IFB, RFP) that specifically describes the scope of work; the materials necessary to complete the work and the services to be procured. A well-structured SOW will serve as the framework of the contract.

The SOW should include:

1. **Background Information.** The solicitation should include information on:
 - a. the audience for which this solicitation is being prepared
 - b. funding source and authorization
 - c. Procuring Entity implementation and responsibilities
 - d. information on previous WDB/Program Operator/Program Operator sponsored training programs
 - e. definitions/terminology
 - f. references to WDB plans; labor market surveys and any other relevant background.
2. **Purpose.** The solicitation should include information on the overall program objectives (and their relationship to this solicitation); the purpose of the contract (what services are being procured); and the target groups the program will serve. Focus should be on outcomes, allowing flexibility on how to achieve the goals.
3. **General Responsibilities.** The SOW should include requirements for information on management, staffing and the direction of programs; location and facilities; hours of operation; coordination with the WDB/Program Operator; administrative procedures; component budget; and, if applicable, minimum staff qualifications.
4. **Demonstrated Performance.** The solicitation should require the offeror to document its record of demonstrated performance in the past delivery of employment & training or related services.
5. **Services to be Performed.** The solicitation should be very specific in describing the services to be performed, carefully identifying what is to be accomplished as opposed to how it should be accomplished. When procuring for employment and training services, this section should identify which career services, and training services are being sought.
6. **Standards of Performance.** This section identifies how well the offeror must perform, including criteria to determine satisfactory performance. This section should reference: program outreach; recruitment goals (e.g., target groups); intake; program design standards; and program performance outcome standards.

7. Administrative Requirements. This section specifies what specific actions must be taken to comply with Federal, State and Local regulations, policies and procedures. At a minimum, this section should include: requirements for maintenance of applicant/participant records; fiscal management and reporting; program status records and reports; a list of any Procuring Entity furnished property or space; allowability of subcontracting; grievance procedures; and performance and submission of single audits by public/non-profit organizations awarded contracts within 9 months of the end of the program, if applicable. Financial risk assessment procedures for each applicant prior to award as required by Federal Regulations 2 CFR 200.205.

8. Exhibits. This section should include any materials to be provided to offeror as exhibits. These exhibits may include, but are not limited to: standard forms and reports; standardized procedures; maps and flow diagrams; proposal evaluation format; and organizational charts.

D. REVIEW/EVALUATION OF SOLICITATIONS

The WDB/Program Operator should have written procedures which:

1. Contain a description of the procedures used to review proposals and select contractors, including:
 - a) The application of the technical rating criteria and evaluation factors contained in the solicitation;
 - b) Identification of what type of staff or others who will review and score or rate technical proposals;
 - c) The roles of staff in the review of proposals, including how and when these roles are to be executed.
2. Describe the procedures for conducting and documenting cost and price analysis.
3. Specify that for all procurements, a procurement file be developed that documents all actions up to and including the awarding of contracts, including required file content.
4. Include a method for allowing and evaluating offerors' protests of contract awards and/or other aspects of the procurement process.
5. Describe the appeal/protest process, including the:
 - a) name of the individual with whom the protest must be filed
 - b) time limits for the filing of protests
 - c) procedure for the handling of protests
 - d) nature of offeror's appeal rights, including appeal of the WDB/Program Operator decision to the state funding agency.

E. RECEIPT OF PROPOSALS

A log of incoming proposals should be kept which contains the name of the offeror, and the date and time of receipt of proposals. The log should not be visible to offerors who hand-deliver their proposals. Names and the number of offerors submitting proposals is confidential until the solicitation process has been completed. Incoming proposals should also be dated stamped. If proposals are late and it has been specified in the solicitation that late submissions will not be accepted, the proposals should still be logged in and then returned to the offeror specifying that the requirements of the solicitation were not satisfied.

Proposals should be opened and the content of proposals reviewed at a specified time and place. If the solicitation specified that incomplete submissions will constitute a non-responsive proposal, then this procedure is critical. A checklist should be developed to review proposals for completeness, utilizing the solicitation specifications.

All proposers should be treated equally. If one proposal is rejected for incompleteness, then all other proposals which were not complete must be rejected.

F. TECHNICAL EVALUATION

Consideration should be given based upon demonstrated performance in the delivery of comparable services, in terms of the likelihood of meeting performance goals, cost, quality of training, the characteristics of the clients, and consideration to demonstrated performance in making appropriate supportive services and child care available.

1. Minimal Evaluation Factors

Criteria tailored to the specific solicitation requirements should be developed. Cost/price should be included. Other factors which can be included are:

- a) Cost Realism (Can the services and the performance goals be delivered for the budgeted cost?)
- b) Time Table (Can the services and performance goals be met in the projected time table?)
- c) Technical Content
- d) Management/Fiscal Capability
- e) Qualifications of staff assigned to the project
- f) Experience in delivering comparable services
- g) Demonstrated Performance
- h) Anything else the agency deems important in making its decision.

The solicitation must specify the criteria that will be used in evaluating proposals. While it does not have to specify the weight of each criteria, it should discuss their relative importance.

2. Rating the Proposals

Factors for rating proposals, whether numerical or qualitative, must ultimately be weighted by total points. In general, the relative weight of criteria should be consistent with the goals of the annual plan or proposal. Rating sheets should direct the reviewer to the relevant sections of the solicitation which is the basis for assignment of points. Rating standards should be constructed in a graduated fashion to prevent an all or nothing decision for a particular criteria. Establishing pass/fail standards such as weeks of training, cost per participant, etc., weakens the impartiality, competitiveness, and cost reasonableness of the process.

3. Proposal Evaluation Conduct

In assigning review membership, it should be clear that all members are expected to read all competing proposals. Sections of proposals should not be subdivided among different committees. Rating sheets should be completely filled out, signed and certified (no conflicts) by the reviewers. The rating sheets should be retained in the procurement file as an audit trail supporting the reliability, objectivity and impartiality of the review process.

The ratings should be summarized and aggregated. The results of the evaluation should then be forwarded in writing by the chair of the committee to the next level of review. Documented minutes should be maintained.

If multiple levels of review occur, the results of each should be separately recorded and documented.

4. Contract Price and Cost Analysis, Independent Estimates, Cost Classification

Contracts must be awarded to the offeror that presents the best services at the most favorable price. Price and cost analysis also demonstrate the offeror's understanding of the services to be provided and their commitment of the needed resources to get the work done. Such analysis is usually separate from program analysis.

A cost or price analysis must be performed in connection with every procurement action in excess of the Simplified Acquisition Threshold (\$150,000), including contract modifications. Each offeror should be required to certify that to the best of its knowledge and belief, the cost data is accurate, complete, and current at the time of agreement on price.

a. Price Analysis

Price analysis is the process of examining and evaluating a price without looking at the cost elements and the proposed profit of the offeror. This involves:

1. Comparison of competitive price quotations.
2. Appropriate comparison of historical or current prices for similar items which have been competitively procured or formally determined as reasonable based on price and/or cost analysis.
3. Appropriate use of measures to point out differences such as price per training hour, price per slot or price per placement among essentially similar services.
4. Appropriate comparisons of prices on published price lists with published market prices together with discount or rebate schedules.
5. Comparison of proposed prices with independent estimates (see above) developed by the contracting entity.

b. Cost Analysis

Cost analysis is the review and evaluation, element by element of the line item budget included in the proposals to establish the reasonableness of proposed costs. Cost analysis is not always necessary. It is used to establish the basis for negotiating a contract price where price comparison is not adequate or is lacking altogether or where price analysis does not ensure the reasonableness of prices.

Elements of Cost Analysis

All offerors should be required to submit a detailed line item budget. Offerors should be required to also submit a narrative describing the assumptions and rationale for arriving at these cost estimates.

Reviewers must then verify the cost and pricing data and evaluate them by:

1. Judging whether costs are reasonable.
2. Evaluating the cost trends on the basis of current or historical cost data.
3. Conducting an appraisal of the estimated labor, materials, etc.
4. Evaluating negotiated or federally audited rates, if indirect charges are included. In conducting such a review, reviewers may reference federal indirect cost rate circulars. Some universities have approved indirect cost rates which may be based upon research or other grant data and would not necessarily apply in the realm of employment and training grants. The rate basis should be clear.
5. Reviewers should also compare costs proposed with any other data available including what the offeror proposed in the past, has delivered or is delivering now, and other proposals.
6. Reviewers should also verify that the proposed costs are in accordance with applicable cost limitations. For instance, if the solicitation states that administration or indirect costs may not exceed 10 percent, then all proposals must be reviewed for compliance with this requirement.

c. Independent Estimates

The method and degree of analysis depends on the facts surrounding the particular procurement and pricing situation, but at a minimum, the awarding agency should make independent estimates before receiving bids or proposals. WDBs/Program Operators/Service Providers must develop independent estimates of the cost elements of the service(s) utilizing budget line item costs and prices developed from past experience, contractor financial reports, etc., to estimate what the likely costs and price of the

procurement will be. This provides a yardstick for the comparison of the costs and prices of an offeror. Estimates may be developed in the form of acceptable ranges for price and cost elements to be measured against the bases of cost/price data during proposal review.

d. Classification of Costs

WDBs/Program Operators/Service Providers should require offerors to submit proposals utilizing the appropriate cost categories so that a determination may be made whether costs comply with cost limitations and whether costs are properly classified, if necessary.

The reviewers must be certain that offerors do not include the same services as both direct and joint/indirect charges. If possible, costs should be budgeted as direct charges. If the offeror has budgeted indirect charges, the rate must be one approved by a cognizant federal agency or based upon a written cost allocation plan approved by the Procuring Entity. Further, the Procuring Entity is not required to allow the offeror an approved rate if sufficient funds are not available or if the administrative cost limitation would be exceeded.

Awards to subrecipients or contractors that are solely for the performance of administrative functions are classified as administrative costs. Personnel and related non-personnel costs of staff that perform both administrative functions as defined in the applicable and programmatic services or activities must be allocated as administrative or program costs to the benefiting cost objectives/categories based on documented distributions of actual time worked or other equitable cost allocation methods. Except for awards that are solely for the performance of administrative functions, all costs incurred for functions and activities of subrecipients and contractors are program costs.

e. Analyzing Proposed Costs

Reviewers need to know the basis for the estimated costs, whether historical data, quotes, catalogs or price data was used. Reviewers also need to determine if proposed resources are sufficient, though not excessive, to achieve objectives, including reasonableness of staffing patterns and salary rates. Finally, reviewers must verify that costs will not violate laws, regulations and policy and solicitation requirements and restrictions. Costs must be necessary and reasonable.

f. Documenting Conclusions and Concerns

Reviewers must document their conclusions and concerns, including the cost analysis, particularly if the Procuring Entity intends to negotiate with the offeror. Documentation is critical if offeror protests are filed and is helpful in the monitoring and administration of the contract.

g. Analysis Of Specific Costs

Each element of cost should be reviewed separately to determine whether it is reasonable and necessary. For example, staffing costs should be reviewed to determine if the staffing pattern and number of staff are appropriate, whether the compensation is appropriate, etc. For all items, reviewers must determine if the proposal is including a fair share of the costs, and whether there is a less costly way of providing the same services. For equipment, lease versus purchase should be considered. WDBs/Program Operators/Service Providers need not allow the purchase of equipment. The reviewer needs to analyze the client supportive services proposed to verify whether those costs are necessary to enable eligible clients to participate in the training.

1. Subcontracts

When an offeror includes a subcontract, it should be clearly identified, described and justified. The reviewer needs to perform price and cost analysis of subcontracts as well. The reviewer should analyze how the prime offeror will monitor subcontracts, review reports, etc.

2. Indirect costs

As stated above, in some cases, the RFP may permit offerors to include indirect costs. These costs must conform to state and local guidelines. The reviewer needs to analyze these costs to ensure that the charges included in the rate are not duplicated in the direct charges. If the indirect rate is not an audited or federally approved one, a cost allocation plan should be submitted by the offeror. The reviewer needs to ascertain whether this contract can support the rate and whether it is appropriate for the proposed services.

3. Profit, Program Income or Fee

In the federal procurement system, profit may only be earned by For-Profit organizations. Non-Profit organizations are required to treat any profit earned as Program Income, and are required to reprogram these funds according to state policy. Procurements shall not permit excess profit or program income. If profit or program income is included in the price, the Procuring Entity shall negotiate profit or program income as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed.

There is no fixed guideline for the identification of excess profit. The Procuring Entity is encouraged to establish a limit (for example, 5%) which may be based on the current market/industry standard/rate of profit for similar work. Any figure which exceeds a Procuring Entity's established limit must be clearly documented as justified, or reduced to that established limit. To establish a fair and reasonable profit or program income, consideration shall be given to the complexity of the work; the risk borne by the contractor; the contractor's investment; the amount of subcontracting; the quality of the contractor's record of past performance; industry profit rates in the surrounding geographical area for similar work; and, market conditions in the surrounding geographical area.

Procuring Entity contracts which provide for profit or program income should require that the provider submit a certification of revenue earned in excess of contract expenses through contract financial close-out reporting.

Contracts between governmental entities may not include profit or program income.

4. Second Year Costs

Solicitations which also seek services for a second year must be subjected to review and evaluation consistent with that of the original awarding year's review. Costs may be less in the second year in the absence of start-up costs. Other costs may rise due to inflation, salary or cost-of-living increases for staff assigned to the contract. All costs must be analyzed and documented as necessary and reasonable in the second/subsequent year.

ATTACHMENT D

GUIDANCE ON CONTRACTING

A. Contract Negotiation And Award

The Procuring Entity should include in their procurement and contracting policy the authority and responsibility for proposal negotiation, final contract negotiation and award, as well as the method and scope of elements subjected to negotiation for proposals and contracts.

1. Competitive Range

A "competitive range" may be defined to establish a pool of negotiable proposals after the initial technical and cost/price evaluation has been completed. Procurement policies should clearly state the criteria for inclusion in the "competitive range", and should not exclude any proposal that may have a reasonable chance of being selected for award based on the initial proposal evaluation/review. Proposal negotiation discussions with offerors should be restricted to indications of proposal deficiencies and requests for additional technical or cost/price information. Upon completion of proposal negotiations, offerors must submit revised proposals which must be reviewed again for technical and cost/price evaluation prior to award.

2. Final Contract Negotiation

Written procedures should determine the method and authority for final negotiation of contracts and should establish the scope/range of negotiable contract aspects. Contract negotiations should not significantly alter the technical or cost/price aspects of the proposals. If they do, they make it necessary for the proposal to be re-submitted for award consideration prior to contract execution.

3. "High-Risk" Contractors

A contractor may be considered "high-risk" if a WDB/Program Operator determines that the contractor is otherwise responsible but:

- a. Has a history of unsatisfactory performance;
- b. Is not financially stable;
- c. Has a management system which does not meet required management standards; or
- d. Has not conformed to terms and conditions of a previously awarded contract or agreement.

When a contractor is considered "high-risk", special funding restrictions to address the "high-risk" status may be included in the agreement. Such restriction may include, but are not limited to:

- a. Making payment on a reimbursement basis;
- b. Requiring additional and/or more detailed financial or performance reports;
- c. Performing additional monitoring;
- d. Requiring the contractor to obtain specific technical or management assistance; and/or
- e. Establishing additional prior approvals.

Should the WDB/Program Operator impose such funding restrictions, the contractor must be notified in writing as early as possible, of:

- a. The nature of the funding restrictions;
- b. The reason(s) for imposing the restrictions;
- c. Any corrective actions which must be taken before the restrictions will be removed, and the time allowed for completing the corrective actions; and
- d. The method of requesting reconsideration of the restrictions imposed.

B. Selection of Contract Type

WDBs/Program Operators may choose from several types of contracts, depending on the circumstances. Examples are:

An equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.
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1. Cost Reimbursement

WIOA Regulations require that agreements between governmental units must be on a cost-reimbursement basis, including agreements with community colleges and Vocational Technical schools. This contract type may be required for funding of "high-risk" contractors.

2. Fixed Unit Price

Requires payment of a specified price for specified deliverables irrespective of actual costs incurred.

3. Combination Cost Reimbursement And Fixed Unit Price

Utilized when some elements of performance are clear and definitive while other performance specifications are more uncertain. Provides shared risk.

4. Letter Contracts/Limited Agreements

WDBs/Program Operators/Service Providers may use Letter Contracts/Limited Agreements to expedite entry into an agreement with a contractor only in emergency or unique situations. Letter/Agreements must include the specific time line of the agreement and the extent of WDB/Program Operator/Service Provider financial and other liability. The agreement must include the signatures of all parties required as authorized signature for the full contract document, and may not obligate the Procuring Entity to enter into the final/full contract, should contract negotiations fail. Such agreements should include the following minimum provisions:

- a. specific deliverables required by, and within the time frame of the limited agreement. This may be achieved through reference to the contract proposal.
- b. ceiling price of the limited agreement and the anticipated ceiling price of the final/full contract pending.
- c. limit of Procuring Entity liability pending finalization of full contract document, including a provision that the limited agreement does not imply obligation to enter into a final/full contract.
- d. incorporate the Procuring Entity standard terms and conditions boilerplate.
- e. agreement active time period and execution date with all required authorized signatures.

Such agreements should not be used as, or in place of, full contract documents. Justification or explanation of the nature of the emergency or unique situation requiring the use of Letter Contracts/Limited Agreements should be maintained in the contract file.

5. Subcontracts/Sub-Agreements

The WDB/Program Operator/Service should have written policy and procedural guidance that addresses the provision of subcontracts/sub-agreements between primary and secondary service providers. Such agreements are allowable. They must be consistent and in compliance with all related Federal, State and Local procurement and contracting laws, regulations and policies.

- 6. Retroactive Contracting (after-the-fact) for new contracts or for active contract change/modifications is not allowed.**

C. Contract Elements

Contracts must include all elements necessary to fully delineate the Procuring Entity's and contractor's responsibilities. These should be clearly documented through a combination of standard boilerplate and specific contract provisions. Proposals may be incorporated, in part or whole, by reference in the contract document.

The development and inclusion of specific contract elements will be effected by the determination of the service provider's status as a subrecipient or a contractor. Aspects of the contract affected by this status may include, but are not limited to: cost classification, audit, and the general requirement to comply with WIOA and funding source regulation and policy. Although service providers may be considered subrecipients or contractors, all costs of contracts that are not exclusively for the provision of administrative functions are program costs.

Subrecipient is defined as a legal entity to which a subgrant/contract is awarded and which is accountable to the Procuring Entity (or higher tier subrecipient) for use of the funds provided. Distinguishing characteristics of a subrecipient include items such as: developing and operating programs specifically designed for a federal program which may include determining eligibility of applicants, enrollment of participants, performance measured against meeting the objectives of the program, responsibility for programmatic decision making, responsibility for compliance with program requirements, and use of the funds awarded to carry out a program or project as compared to providing "end-line" goods or services for use by a program or project (contractor). Subrecipient contracts/agreements identify the source of funds (e.g., WIOA) and require compliance with all related regulations and policy, including but not limited to, appropriate identification and classification of all costs incurred and coverage under required audits.

Contractor is defined as an entity that receives a contract, is responsible for providing generally required "end-line" goods or services to be used by the program or project. These goods or services may be for the subrecipient's own use or for the use of participants in the program/project. Distinguishing characteristics of a contractor include items such as: providing the goods and services within normal business operation; providing similar goods or services to many different purchasers, including purchasers outside of the program; and operating in a competitive environment. Contractors are not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

Required Contract Elements

Contracts should contain the following elements, where applicable:

1. names of responsible parties and organizations
2. type of contracting organization
3. type of contract
4. amount of contract obligation
5. source of contract funds
6. training site(s)
7. contract effective time period
8. number of participants to be served
9. signature of authorized officials
10. document execution date(s)
11. statement of work/deliverables including goal statement/objectives, target group, justification for services products/outcomes/performance required outreach/intake and assessment program design/curriculum frequency of participant contact, activity time line, and follow-up
12. cost reimbursement line item budget data by cost category
13. payment and delivery terms/invoice forms and procedures
14. termination for cause/default/de-obligation/convenience
15. audit and record access and examination rights
16. record retention requirements
17. compliance with related federal state and local laws, regulations, and policies
18. conflict of interest and code of conduct requirements
19. debarment and suspension certification
20. anti-lobbying disclosure
21. provision against assignment/unauthorized subcontracting
22. procedures for changes/modifications
23. definitions of key terms
24. staff qualifications
25. reporting requirements - program and fiscal
26. table of contents
27. AA/EEO/non-discrimination
28. contractor insurance liability/bonding
29. grievance procedures for termination and non-payment
30. monitoring/corrective action/sanctions procedures
31. equipment and property allowance/disposition

32. severability provision
33. hold harmless clause
34. maintenance of effort clause
35. program income or work product requirements
36. individual authorized to sign invoices/request payment
37. operational plan - participant activity/expense schedule
38. protests/disputes/claims clause
39. subcontracting clause
40. Pell Grant/cost reduction clause
41. fund advance/reconciliation & recapture clause
42. contract close-out requirements
43. single audit or other audit requirement
44. program income or profit requirements

D. Contract Administration

The Procuring Entity should establish written policy and procedural guidance to address contract administration. The primary purpose of Contract Administration is to ensure subrecipient/contractor compliance with all contractual obligations; including, but not limited to, program performance and financial considerations. Policy and procedural guidance should include:

1. provisions to ensure payments consistent with contract terms,
2. provision for inspecting/monitoring work performed to ensure consistency with the contract terms,
3. procedures to provide technical assistance to contractors,
4. criteria and procedures for contract change/modification,
5. procedures for the review, approval and monitoring of sub-agreement procurements and contract documents,
6. procedures to execute termination provisions as stipulated in contract documents,
7. procedures to resolve contract protests/disputes/claims as stipulated in contract documents,
8. procedures to develop and monitor corrective actions as stipulated in contract documents,
9. required contract file documentation and retention procedures, and
10. procedures to close-out contracts and related reporting requirements.

Procuring Entity policy and written procedural guidance should provide for centralized contract files which include the following (See Attachment B for Contract File Checklist):

1. A copy of the contract with original signatures
2. Copies of any subsequent modifications with original signatures
3. Contract cost/pricing data
4. Contract proposal, if incorporated by reference
5. Pre-award surveys or review data
6. Subcontract/Sub-agreement approvals
7. Copies of required insurance policies and bonds
8. Copies of any SDA/SSA/Service Provider or Contractor correspondence
9. Monitoring reports/corrective actions/follow-up records
10. Invoice/Billing and records of payment documentation
11. Records of Cash advances and liquidation of funds
12. Equipment acquisition and property disposition records
13. Documentation related to termination actions
14. Contractor reports on deliverables provided
15. Contract close-out reports and related documentation

E. Contract Monitoring

Procuring Entity policy and procedural guidance should address contract monitoring, including systems for both program and financial monitoring to ensure contractor compliance with all elements of the contractual agreement. Monitoring documentation should include:

1. the method of identification of deficiencies
2. results of monitoring reviews
3. written notice to contractors regarding deficiencies
4. corrective action plans
5. follow-up and resolution of corrective actions.

Monitoring must be performed on-site at least once each program year. Financial monitoring must ensure that auditable records of financial activity are maintained and retained. Formal financial monitoring procedures should include the use of a monitoring tool and system sampling.

Fiscal Monitoring should include:

1. allowability of costs
2. cost classification and allocation
3. general ledger and records management
4. invoicing and cash receipts
5. cash disbursements
6. cash reconciliations
7. analysis of cash advances/cash on hand
8. subcontract/sub-agreement review
9. property/equipment management
10. purchasing/procurement systems
11. matching funds procedures and documentation
12. determination of program income/profit
13. compliance with all related Federal, State and Local laws, regulations, policies and contractual requirements
14. determination that financial performance is commensurate with program performance.

Program monitoring should address the following areas:

1. Provision of quality services.
2. Performance monitoring to ensure achievement of contract objectives/contractual obligation.
3. Compliance monitoring to ensure satisfaction of contractual and regulatory requirements.

Program performance monitoring should include:

1. quality of participant enrollment/intake
2. quality/quantity of participant counseling
3. quality of participant orientation
4. quality of training provision
5. quality of case management records and systems
6. quality of job development and placement activity
7. quality/allowability of participant support services
8. contractors personnel systems
9. termination and follow-up
10. level of outcome performance
11. subcontract/sub-agreement program/performance review
12. achievement of other specific contractual objectives
13. compliance with all related Federal, State and Local laws, regulations, policy and contractual requirements

F. Contract Corrective Action

WDBs/Program Operators/Service Providers should have systems to document and resolve contract corrective actions as stipulated in the contract document. Procedures should designate authority and responsibility for development, monitoring and follow-up of corrective action plans. The corrective action plan should define the deficiency, state all resolution actions required, provide a time line for resolution, and include follow-up verification.

G. Contract Close-Out

Procuring Entity should document contract close-out. Contractors should be required to close-out agreements in a timely manner (consistent with close-out reporting requirements). Close-out reports should include the following minimum items:

1. Statement of Subcontract/Sub-agreement termination.
2. Statement of Status of Cash accounts and liquidation of advances.
3. Statement of settlement of all contract related financial or other liabilities.
4. Statement releasing Procuring Entity from any further liability.
5. Assignment of any refunds, rebates, or credits due.
6. Statement of program income/profit and its disposition.
7. Final Invoice for payment.
8. Reason for termination (completion or other).
9. Any other reports required by the contract document.

CONTRACT FILE CHECKLIST

Contract Name: _____

Contractor: _____

Contract Number: _____ Contract Amount: \$ _____

Contract Period: _____

Funding Source: _____

- _____ Signed/Executed copy of the contract with original signatures
- _____ Signed copy(s) of subsequent contract modifications with original signature
- _____ Contract/Mod. Cost/price analysis and justification
- _____ Proposal or other documents incorporated by reference
- _____ Required certifications (debarment & suspension, etc.)
- _____ Pre-award surveys or other review data
- _____ Copy(s) of contract negotiation data
- _____ Subcontract/sub-agreement approval documentation
- _____ Copy(s) of required insurance/bonds
- _____ Copy(s) of Agency/Contractor correspondence
- _____ Monitoring Reports/Corrective Actions/Follow-up Documents
- _____ Invoice/billing records of payment (In Finance Department Files)
- _____ Records of cash advances/on-hand and liquidation of funds (In Finance Department Files)
- _____ Property/equipment acquisition and disposition records (In Finance Department Files)
- _____ Documentation of termination actions
- _____ Contractor report(s) of deliverables provided
- _____ Contract Close-out/Cash settlement/Program Income Reports (In Finance Department Files)
- _____ Copies of required audit reports/review & resolution