

Performance Measures Improvement

589-020-0270 (1) Purpose: The purpose of this rule is to establish the requirements and procedures that take effect if a Local Area fails to meet the local performance measures negotiated with the Department pursuant to the federal Workforce Investment Act (WIA), PL 105-220, its amendments and regulations thereto.

(2) Definitions: As used in OAR 589-020-0270, unless the context requires otherwise:

(a) Failure to Meet: Actual performance for any of the 17 core performance indicators that falls below 80% of the negotiated level of performance. Technical assistance is required to be provided under WIA Section 134(a)(2)(B)(iv) to Local Workforce Investment Areas (LWAs) that fail to meet local performance measures.

(b) Negotiated Levels of Performance: The numeric performance target agreed to by the Department and the LWA for each of the 17 core performance indicators.

(c) Performance Measures: the 17 performance indicators required by the Workforce Investment Act of 1998, section 136; Final Rules, 20 CFR part 666, published at 65 federal Register 49419 (August 11, 2000).

(d) Program Area: A cluster of measures used in the evaluation of performance for incentive or improvement purposes. There are four program areas: Adults, Dislocated Workers, Youth (both older and younger youth), and customer satisfaction (even though it is not technically a "program").

(e) Unawarded Incentive Grant Funds: Those funds remaining after all incentive awards have been made.

(3) The LWA must achieve at least 80% of the negotiated performance level on each performance measure within a given program area to qualify as having met performance.

(4) Technical assistance shall be provided by the Department or upon request by the Department, the U.S. Department of Labor, Employment and Training Administration, if an LWA fails to meet negotiated levels of performance relating to a program area for any program year.

(a) Technical assistance may include assistance in the development of a performance improvement plan, or the development of a modified local plan.

(b) The following criteria must be considered in providing technical assistance:

(A) The action taken must be remedial in nature rather than punitive; and

(B) The action taken must be appropriate to remedy the problem causing the poor performance.

(5) When the Department determines the local area has failed to meet any negotiated performance, the Department notifies the local area. Upon such notification, the procedures described below shall be followed:

(a) The local area analyzes the problem relative to the failed indicator(s);

(b) The local area develops and submits a program improvement plan to the Department within 30 calendar days of notification from the Department designed to address performance not achieved. The plan shall include proposed actions and costs. The local area may request the assistance of the Department in developing the program improvement plan.

(c) Within 30 calendar days following receipt of the plan, the Department reviews and may approve the program improvement plan based on the following criteria:

(A) The plan adequately addresses the indicator(s) not achieved; and

(B) The costs of the planned action are reasonable.

(d) If the program improvement plan is not approved, the Department notifies the local area of the decision and provides assistance to address the issues resulting in the plan disapproval.

(6) Upon approval of the program improvement plan by the Department, Unawarded Incentive Grant funds shall be made available in accordance with OAR 589-020-0260 for technical assistance/program improvement to those local areas whose performance for any of the 17 core performance indicators falls below 80% of the negotiated performance level.

(7) If failure to meet performance as defined in (2)(a), (3) and (4) of this OAR continues for a second consecutive year, the Department shall take corrective action which may include development of a reorganization plan through which the Department may –

(a) Require the appointment and certification of a new local board (consistent with the criteria established under WIA Section 117(b);

(b) Prohibit the use of eligible providers and one-stop partners identified as achieving a poor level of performance; or

(c) Take such other actions as the Department determines are appropriate to improve the performance of the local area including those identified in (4) through (6) of this OAR. Other actions may include the selection of an alternative entity to administer the program(s) for the local area. The alternative entity may be a newly formed workforce investment board or any agency jointly selected by the Department and the chief elected official(s) of the LWA.

(8) A local area that is subject to a reorganization plan under (7) of this OAR may, not later than 30 days after receiving notice of the reorganization plan, appeal to the Department to rescind or revise such plan. In such case, the Department shall make a final decision not later than 30 days after the receipt of the appeal.

(a) The decision of the Department shall become effective at the time the Department issues the decision pursuant to (8) of this OAR. Such decision shall remain effective unless the Secretary of the U.S. Department of Labor rescinds or revises such plan pursuant to (8)(b) of this OAR.

(b) The local area may, not later than 30 days after receiving a decision from the Department pursuant to (8) of this OAR, appeal such decision to the Secretary of the U.S. Department of Labor. In such case, the Secretary shall make a final decision not later than 30 days after the receipt of the appeal.

Statutory Authority: 326.370

Statutes Implemented: 326.370

Hist.: New