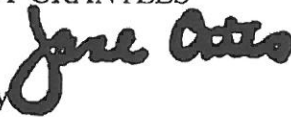


EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WIA
	CORRESPONDENCE SYMBOL OWI-DWASWS
	DATE November 23, 2011

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 11-11

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
STATE AND LOCAL WORKFORCE INVESTMENT BOARD DIRECTORS
COMPREHENSIVE AND AFFILIATE ONE-STOP CAREER CENTER
DIRECTORS
DISCRETIONARY GRANTEES

FROM: JANE OATES
Assistant Secretary



SUBJECT: Selective Service Registration Requirements for Workforce Investment Act and Wagner-Peyser-funded programs

1. **Purpose.** This Training and Employment Guidance Letter (TEGL) provides information on the Selective Service registration requirements for Workforce Investment Act-funded services established by the Workforce Investment Act (WIA) § 189(h), codified at 20 CFR 667.250, and the Military Selective Service Act (50 U.S.C. App. 453), codified at 32 CFR Part 1605.
2. **Selective Service Registration Requirements.** Men born on or after January 1, 1960 are required to register with Selective Service within 30 days of their 18th birthday (i.e. 30 days before or 30 days after their birthday.) This includes males who are:
 - Citizens of the U.S.;
 - Non-citizens, including illegal aliens, legal permanent residents, seasonal agricultural workers, and refugees, who take up residency in the U.S. before their 26th birthday; and/or
 - Dual nationals of the U.S. and another country regardless of whether they live in the U.S.

For U.S. citizens, Selective Service registration is not required if the man falls within one of the following categories:

- Men who are serving in the military on full-time active duty;
- Men attending the service academies;
- Disabled men who were continually confined to a residence, hospital or institution; and/or

RESCISSIONS None	EXPIRATION DATE Continuing
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- Men who are hospitalized, institutionalized, or incarcerated are not required to register during their confinement; however, they must register within 30 days after being released if they have not yet reached their 26th birthday.

For non-U.S. citizens, Selective Service registration is not required if the man falls within one of the following categories:

- Non-U.S. male who came into this country for the first time after his 26th birthday. Acceptable forms of supporting documentation include:
 1. Date of entry stamp in his passport;
 2. I-94 with date of entry stamp on it; or
 3. Letter from the U.S. Citizenship and Immigration Services (USCIS) indicating the date the man entered the United States presented in conjunction with documentation establishing the individual's age.
- Non-U.S. male who entered the U.S. illegally after his 26th birthday. He must provide proof that he was not living in the U.S. from age 18 through 25.
- Non-U.S. male on a valid non-immigrant visa.

This list is not intended to be exhaustive. Please visit the Selective Service website for more information about the registration requirements at www.sss.gov. The Selective Service System also provides a quick reference chart showing who must register located at <http://www.sss.gov/PDFs/WhoMustRegisterChart.pdf>.

3. **Ensuring Selective Service Compliance in the Public Workforce System.** In order to be eligible to receive WIA-funded services, all males born on or after January 1, 1960 must present documentation showing compliance with the Selective Service registration requirement. Acceptable documentation to determine a person's Selective Service registration status include:
- Selective Service Acknowledgement letter
 - Form DD-214 "Report of Separation"
 - Screen printout of the Selective Service Verification site: www.sss.gov/RegVer/wfVerification.aspx. For males who have already registered, this website can be used to confirm their Selective Service number as well as the date of registration, by entering a last name, social security number, and date of birth.
 - Selective Service Registration Card
 - Selective Service Verification Form (Form 3A)
 - Stamped Post Office Receipt of Registration

Registration Requirements for Males Under 26

Before being enrolled in WIA-funded services, all males who are not registered with the Selective Service and have not reached their 26th birthday must register through the Selective Service website at www.sss.gov. If a male turns 18 while participating in WIA-funded services, registration with Selective Service must be completed no later than 30 days after he becomes 18 in order to continue to receive WIA-funded services. If a man under the age of 26 refuses to register with the Selective Service, WIA-funded services must be suspended until he registers.

Registration Requirements for Males 26 Years and Over

Before enrolling in WIA-funded services, all males, 26 years of age or older, must provide documentation of compliance with the Selective Service registration requirement. Individuals who did not register for the Selective Service or who cannot provide any of the

documentation listed in Section 3 must obtain a *Status Information Letter* from Selective Service indicating whether he was required to register. The *Request for Status Information Letter* form can be accessed at <http://www.sss.gov/PDFs/infoform.pdf> and the instructions can be accessed at <http://www.sss.gov/PDFs/instructions.pdf>. The individual will need to describe, in detail, the circumstances that prevented him from registering (e.g., hospitalization, institutionalization, incarceration, military service) and provide documentation of those circumstances. The documentation should be specific as to the dates of the circumstances.

If the *Status Information Letter* indicates that an individual was not required to register for the Selective Service, then he is eligible to enroll in WIA-funded service. **If the Status Information Letter indicates that the individual was required to register and now cannot because he is 26 or older, he is presumed to be disqualified from participation in WIA-funded activities and services until it can be determined that his failure to register was not knowing and willful.** All costs associated with grant-funded services provided to non-eligible individuals may be disallowed.

Determining Knowing and Willful Failure to Register

If the individual was required but failed to register with the Selective Service, the individual may only receive services if they establish by a preponderance of the evidence that the failure to register was not knowing and willful. The grantee, subgrantee, or contractor that enrolls individuals in WIA-funded activities, and is thereby authorized to approve the use of WIA grant funds, is the entity responsible for evaluating the evidence presented by the individual and determining whether the failure to register was a knowing and willful failure.

Evidence presented may include the individual's written explanation and supporting documentation of his circumstances at the time of the required registration and the reasons for failure to register. The individual should be encouraged to offer as much evidence and in as much detail as possible to support his case. The following are examples of documentation that may be of assistance in making a determination in these cases:

1. Service in Armed Forces. Evidence that a man has served honorably in the U.S. Armed Forces such as DD Form 214 or his Honorable Discharge Certificate. Such documents may be considered sufficient evidence that his failure to register was not willful or knowing.
2. Third Party Affidavits. Affidavits from parents, teachers, employers, doctors, etc. concerning reasons for not registering, may also be helpful to grantees in making determinations in cases regarding willful and knowing failure to register.

In order to establish consistency regarding the implementation of the requirement, grantees should consider the following questions when determining whether a failure to register is knowing and willful.

In determining whether the failure was "knowing", the authorized organization should consider:

- Was the individual aware of the requirement to register?
- If the individual knew about the requirement to register, was he misinformed about the applicability of the requirement to him (e.g., veterans who were discharged before their 26th birthday were occasionally told that they did not need to register)?
- On which date did the individual first learn that he was required to register?
- Where did the individual live when he was between the ages of 18 and 26?

- Does the status information letter indicate that Selective Service sent letters to the individual at that address and did not receive a response?

In determining whether the failure was “willful”, the authorized organization should consider:

- Was the failure to register done deliberately and intentionally?
- Did the individual have the mental capacity to choose whether or not to register and decided not to register?
- What actions, if any, did the individual take when he learned of the requirement to register?

If an authorized organization determines it was not a knowing and willful failure and the individual is otherwise eligible, services may be provided. If the authorized organization determines that evidence shows that the individual’s failure to register was knowing and willful, WIA services must be denied. Individuals denied services must be advised of available WIA grievance procedures. Authorized organizations must keep documentation related to evidence presented in determinations related to Selective Service.

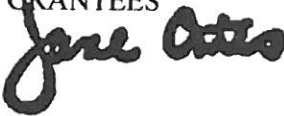
4. **Inquiries.** Direct all inquiries to Employment and Training Administration Federal Project Officer.

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WIA
	CORRESPONDENCE SYMBOL OWI/DWASWS
	DATE January 20, 2012

**ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 11-11,
CHANGE 1**

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
STATE AND LOCAL WORKFORCE INVESTMENT BOARD DIRECTORS
COMPREHENSIVE AND AFFILIATE ONE-STOP CAREER CENTER
DIRECTORS
JOB CORPS CONTRACTORS
INDIAN AND NATIVE AMERICAN WORKFORCE INVESTMENT ACT
SECTION 166 GRANTEES
NATIONAL FARMWORKER JOBS PROGRAM GRANTEES
DISCRETIONARY GRANTEES

FROM: JANE OATES
Assistant Secretary



SUBJECT: Selective Service Registration Requirements for Employment and Training
Administration Funded Programs

1. **Purpose.** This Training and Employment Guidance Letter (TEGL) Change 1 clarifies which programs or services must comply with the Selective Service registration requirements of the Workforce Investment Act (WIA) of 1998 § 189(h), codified at 20 CFR 667.250, and the Military Selective Service Act (50 U.S.C. App. 453), codified at 32 CFR Part 1605. **This guidance clarifies that programs or services funded or authorized by Title I of WIA, not those funded or authorized solely by the Wagner-Peyser Act, must comply with the Selective Service registration requirements.** This clarification replaces and supersedes prior guidance issued.
2. **Applicable Programs and Services.** All programs and services established or receiving assistance under Title I of WIA must comply with Selective Service registration requirements. These requirements apply to both formula and discretionary grants awarded by the Employment and Training Administration under WIA. Any grantee with questions regarding the applicability of these requirements should contact their Federal Project Officer.

RESCISSIONS TEGL 11-11	EXPIRATION DATE Continuing
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3. **Selective Service Registration Requirements.** Men born on or after January 1, 1960 are required to register with Selective Service within 30 days of their 18th birthday (i.e. 30 days before or 30 days after their birthday.) This includes males who are:
- Citizens of the U.S.;
 - Non-citizens, including illegal aliens, legal permanent residents, seasonal agricultural workers, and refugees, who take up residency in the U.S. before their 26th birthday; and/or
 - Dual nationals of the U.S. and another country regardless of whether they live in the U.S.

For U.S. citizens, Selective Service registration is not required if the man falls within one of the following categories:

- Men who are serving in the military on full-time active duty;
- Men attending the service academies;
- Disabled men who were continually confined to a residence, hospital or institution; and/or
- Men who are hospitalized, institutionalized, or incarcerated are not required to register during their confinement; however, they must register within 30 days after being released if they have not yet reached their 26th birthday.

For non-U.S. citizens, Selective Service registration is not required if the man falls within one of the following categories:

- Non-U.S. male who came into this country for the first time after his 26th birthday. Acceptable forms of supporting documentation include:
 1. Date of entry stamp in his passport;
 2. I-94 with date of entry stamp on it; or
 3. Letter from the U.S. Citizenship and Immigration Services (USCIS) indicating the date the man entered the United States presented in conjunction with documentation establishing the individual's age.
- Non-U.S. male who entered the U.S. illegally after his 26th birthday. He must provide proof that he was not living in the U.S. from age 18 through 25.
- Non-U.S. male on a valid non-immigrant visa.

This list is not intended to be exhaustive. Please visit the Selective Service website for more information about the registration requirements at www.sss.gov. The Selective Service System also provides a quick reference chart showing who must register located at <http://www.sss.gov/PDFs/WhoMustRegisterChart.pdf>.

4. **Ensuring Selective Service Compliance in the Public Workforce System.** In order to participate in a program established by or receiving assistance under Title I of WIA, all males born on or after January 1, 1960 must present documentation showing compliance with the Selective Service registration requirement. Acceptable documentation to determine a person's Selective Service registration status include:
- Selective Service Acknowledgement letter
 - Form DD-214 "Report of Separation"
 - Screen printout of the Selective Service Verification site: www.sss.gov/RegVer/wfVerification.aspx. For males who have already registered, this website can be used to confirm their Selective Service number as well as the date of registration, by entering a last name, social security number, and date of birth.

- Selective Service Registration Card
- Selective Service Verification Form (Form 3A)
- Stamped Post Office Receipt of Registration

Registration Requirements for Males Under 26

Before being enrolled in WIA Title I-funded services, all males who are not registered with the Selective Service and have not reached their 26th birthday must register through the Selective Service website at www.sss.gov. If a male turns 18 while participating in any applicable services, registration with Selective Service must be completed no later than 30 days after he becomes 18 in order to continue to receive WIA Title I-funded services. If a man under the age of 26 refuses to register with the Selective Service, WIA Title I-funded services must be suspended until he registers.

Registration Requirements for Males 26 Years and Over

Before enrolling in WIA Title I-funded services, all males, 26 years of age or older, must provide documentation of compliance with the Selective Service registration requirement. Individuals who did not register for the Selective Service or who cannot provide any of the documentation listed in Section 3 must obtain a *Status Information Letter* from Selective Service indicating whether he was required to register. The *Request for Status Information Letter* form can be accessed at <http://www.sss.gov/PDFs/infoform.pdf> and the instructions can be accessed at <http://www.sss.gov/PDFs/instructions.pdf>. The individual will need to describe, in detail, the circumstances that prevented him from registering (e.g., hospitalization, institutionalization, incarceration, military service) and provide documentation of those circumstances. The documentation should be specific as to the dates of the circumstances.

If the *Status Information Letter* indicates that an individual was not required to register for the Selective Service, then he is eligible to enroll in services authorized or funded by Title I of WIA. **If the Status Information Letter indicates that the individual was required to register and now cannot because he is 26 or older, he is presumed to be disqualified from participation in WIA Title I-funded activities and services until it can be determined that his failure to register was not knowing and willful.** All costs associated with grant-funded services provided to non-eligible individuals may be disallowed.

Determining Knowing and Willful Failure to Register

If the individual was required but failed to register with the Selective Service, the individual may only receive services if they establish by a preponderance of the evidence that the failure to register was not knowing and willful. The grantee, subgrantee, or contractor that enrolls individuals in WIA Title I-funded activities, and is thereby authorized to approve the use of WIA Title I grant funds, is the entity responsible for evaluating the evidence presented by the individual and determining whether the failure to register was a knowing and willful failure.

Evidence presented may include the individual's written explanation and supporting documentation of his circumstances at the time of the required registration and the reasons for failure to register. The individual should be encouraged to offer as much evidence and in as much detail as possible to support his case. The following are examples of documentation that may be of assistance in making a determination in these cases:

1. Service in Armed Forces. Evidence that a man has served honorably in the U.S. Armed Forces such as DD Form 214 or his Honorable Discharge Certificate. Such documents may be considered sufficient evidence that his failure to register was not willful or knowing.
2. Third Party Affidavits. Affidavits from parents, teachers, employers, doctors, etc. concerning reasons for not registering, may also be helpful to grantees in making determinations in cases regarding willful and knowing failure to register.

In order to establish consistency regarding the implementation of the requirement, grantees should consider the following questions when determining whether a failure to register is knowing and willful.

In determining whether the failure was “knowing,” the authorized organization should consider:

- Was the individual aware of the requirement to register?
- If the individual knew about the requirement to register, was he misinformed about the applicability of the requirement to him (e.g., veterans who were discharged before their 26th birthday was occasionally told that they did not need to register)?
- On which date did the individual first learn that he was required to register?
- Where did the individual live when he was between the ages of 18 and 26?
- Does the status information letter indicate that Selective Service sent letters to the individual at that address and did not receive a response?

In determining whether the failure was “willful”, the authorized organization should consider:

- Was the failure to register done deliberately and intentionally?
- Did the individual have the mental capacity to choose whether or not to register and decided not to register?
- What actions, if any, did the individual take when he learned of the requirement to register?

If an authorized organization determines it was not a knowing and willful failure and the individual is otherwise eligible, services may be provided. If the authorized organization determines that evidence shows that the individual’s failure to register was knowing and willful, WIA services must be denied. Individuals denied services must be advised of available WIA grievance procedures. Authorized organizations must keep documentation related to evidence presented in determinations related to Selective Service.

5. **Inquiries**. Direct all inquiries to Employment and Training Administration Federal Project Officer.

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WIA
	CORRESPONDENCE SYMBOL OWI/DWASWS
	DATE May 16, 2012

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 11-11, CHANGE 2

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
STATE AND LOCAL WORKFORCE INVESTMENT BOARD DIRECTORS
COMPREHENSIVE AND AFFILIATE ONE-STOP CAREER CENTER DIRECTORS
JOB CORPS CONTRACTORS
INDIAN AND NATIVE AMERICAN WORKFORCE INVESTMENT ACT SECTION 166 GRANTEES
NATIONAL FARMWORKER JOBS PROGRAM GRANTEES
DISCRETIONARY GRANTEES

FROM: JANE OATES 
Assistant Secretary

SUBJECT: Selective Service Registration Requirements for Employment and Training Administration Funded Programs

1. **Purpose.** This Training and Employment Guidance Letter (TEGL) 11-11, Change 2 clarifies the implementation of the Selective Service registration requirements of the Workforce Investment Act (WIA) of 1998 § 189(h), codified at 20 CFR 667.250, and the Military Selective Service Act (50 U.S.C. App. 453), codified at 32 CFR Part 1605. **This guidance clarifies that grantees, subgrantees, or contractors funded or authorized by Title I of WIA must set a policy for potential participants who are males 26 years old or older that failed to register with the Selective Service. The policy may either (1) request a Status Information Letter from a potential participant before making a determination of knowing and willful failure to register; or (2) initiate the process to determine if the potential participant's failure to register was knowing and willful without the first requesting a Status Information Letter (see Section 4. *Ensuring Selective Service Compliance in the Public Workforce System*). This clarification replaces and supersedes prior guidance issued.**
2. **Applicable Programs and Services.** All programs and services established or receiving assistance under Title I of WIA must comply with Selective Service registration requirements. These requirements apply to both formula and discretionary grants awarded by

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the Employment and Training Administration under WIA. Any grantee with questions regarding the applicability of these requirements should contact their Federal Project Officer.

3. **Selective Service Registration Requirements.** Men born on or after January 1, 1960 are required to register with Selective Service within 30 days of their 18th birthday (i.e. 30 days before or 30 days after their birthday.) This includes males who are:
- Citizens of the U.S.;
 - Non-citizens, including illegal aliens, legal permanent residents, seasonal agricultural workers, and refugees, who take up residency in the U.S. before their 26th birthday; and/or
 - Dual nationals of the U.S. and another country regardless of whether they live in the U.S.

For U.S. citizens, Selective Service registration is not required if the man falls within one of the following categories:

- Men who are serving in the military on full-time active duty;
- Men attending the service academies;
- Disabled men who are continually confined to a residence, hospital or institution; and/or
- Men who are hospitalized, institutionalized, or incarcerated are not required to register during their confinement; however, they must register within 30 days after being released if they have not yet reached their 26th birthday.

For non-U.S. citizens, Selective Service registration is not required if the man falls within one of the following categories:

- Non-U.S. male who came into this country for the first time after his 26th birthday. Acceptable forms of supporting documentation include:
 1. Date of entry stamp in his passport;
 2. I-94 with date of entry stamp on it; or
 3. Letter from the U.S. Citizenship and Immigration Services (USCIS) indicating the date the man entered the United States presented in conjunction with documentation establishing the individual's age.
- Non-U.S. male who entered the U.S. illegally after his 26th birthday. He must provide proof that he was not living in the U.S. from age 18 through 25.
- Non-U.S. male on a valid non-immigrant visa.

This list is not intended to be exhaustive. Please visit the Selective Service website for more information about the registration requirements at www.sss.gov. The Selective Service System also provides a quick reference chart showing who must register located at <http://www.sss.gov/PDFs/WhoMustRegisterChart.pdf>.

4. **Ensuring Selective Service Compliance in the Public Workforce System.** In order to participate in a program established by or receiving assistance under Title I of WIA, all males born on or after January 1, 1960 must present documentation showing compliance with the Selective Service registration requirement. Acceptable documentation to determine a person's Selective Service registration status include:

- Selective Service Acknowledgement letter;
- Form DD-214 "Report of Separation";
- Screen printout of the Selective Service Verification site: www.sss.gov/RegVer/wfVerification.aspx. For males who have already registered, this website can be used to confirm their Selective Service number as well as the date of registration, by entering a last name, social security number, and date of birth;
- Selective Service Registration Card;
- Selective Service Verification Form (Form 3A); and/or
- Stamped Post Office Receipt of Registration.

Registration Requirements for Males Under 26

Before being enrolled in WIA Title I-funded services, all males who are not registered with the Selective Service and have not reached their 26th birthday must register through the Selective Service website at www.sss.gov. If a male turns 18 while participating in any applicable services, registration with Selective Service must be completed no later than 30 days after he becomes 18 in order to continue to receive WIA Title I-funded services. If a man under the age of 26 refuses to register with the Selective Service, WIA Title I-funded services must be suspended until he registers.

Registration Requirements for Males 26 Years and Over

Before enrolling in WIA Title I-funded services, all males, 26 years of age or older, must provide (1) documentation of compliance with the Selective Service registration requirement; (2) documentation showing they were not required to register; or (3) if they were required to but did not register, documentation establishing that their failure to register was not knowing and willful.

The grantee, subgrantee, or contractor that enrolls individuals in WIA Title I-funded activities may require that males 26 years and over, who failed to comply with the Selective Service registration requirement, request a Status Information Letter before making a determination that the failure to register was knowing and willful. Alternatively, an entity may initiate its process to determine if the failure to register was knowing and willful without first having the potential program participant request the Status Information Letter. The second option may be preferable for entities that have time limits for enrolling participants (e.g. individuals recently released from incarceration).

Requesting a Status Information Letter. An individual may obtain a *Status Information Letter* from Selective Service if he (1) believes he was not required to register; or (2) did register but cannot provide any of the documentation listed in Section 3. The *Request for Status Information Letter* form can be accessed at <http://www.sss.gov/PDFs/infoform.pdf> and the instructions can be accessed at <http://www.sss.gov/PDFs/instructions.pdf>. The individual will need to describe, in detail, the circumstances that prevented him from registering (e.g., hospitalization, institutionalization, incarceration, and/or military service from age 18

through 25.) and provide documentation of those circumstances. The documentation should be specific as to the dates of the circumstances.

If the *Status Information Letter* indicates that an individual was not required to register for the Selective Service, then he is eligible to enroll in services authorized or funded by Title I of WIA. **If the Status Information Letter indicates that the individual was required to and did not register, he is presumed to be disqualified from participation in WIA Title I-funded activities and services until it can be determined that his failure to register was not knowing and willful.** All costs associated with grant-funded services provided to non-eligible individuals may be disallowed.

Determining Knowing and Willful Failure to Register. If the individual was required but failed to register with the Selective Service as determined by the *Status Information Letter* or by his own acknowledgment, the individual may only receive services if he can establish by a preponderance of the evidence that the failure to register was not knowing and willful. The grantee, subgrantee, or contractor that enrolls individuals in WIA Title I-funded activities is responsible for evaluating the evidence presented by the individual and determining whether the failure to register was a knowing and willful failure.

Evidence presented may include the individual's written explanation and supporting documentation of his circumstances at the time of the required registration and the reasons for failure to register. The individual should be encouraged to offer as much evidence and in as much detail as possible to support his case. The following are examples of documentation that may be of assistance in making a determination in these cases:

1. Service in Armed Forces. Evidence that a man has served honorably in the U.S. Armed Forces such as DD Form 214 or his Honorable Discharge Certificate. Such documents may be considered sufficient evidence that his failure to register was not willful or knowing.
2. Third Party Affidavits. Affidavits from parents, teachers, employers, doctors, etc. concerning reasons for not registering, may also be helpful to grantees in making determinations in cases regarding willful and knowing failure to register.

In order to establish consistency regarding the implementation of the requirement, grantees should consider the following questions when determining whether a failure to register is knowing and willful.

In determining whether the failure was "knowing," the authorized organization should consider:

- Was the individual aware of the requirement to register?
- If the individual knew about the requirement to register, was he misinformed about the applicability of the requirement to him (e.g., veterans who were discharged before their 26th birthday were occasionally told that they did not need to register)?
- On which date did the individual first learn that he was required to register?
- Where did the individual live when he was between the ages of 18 and 26?

- Does the status information letter indicate that Selective Service sent letters to the individual at that address and did not receive a response?

In determining whether the failure was “willful,” the authorized organization should consider:

- Was the failure to register done deliberately and intentionally?
- Did the individual have the mental capacity to choose whether or not to register and decided not to register?
- What actions, if any, did the individual take when he learned of the requirement to register?

If an authorized organization determines it was not a knowing and willful failure and the individual is otherwise eligible, services may be provided. If the authorized organization determines that evidence shows that the individual’s failure to register was knowing and willful, WIA services must be denied. Individuals denied services must be advised of available WIA grievance procedures. Authorized organizations must keep documentation related to evidence presented in determinations related to Selective Service.

5. **Inquiries.** Direct all inquiries to Employment and Training Administration Federal Project Officer.

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WIA/Same-Sex Marriage
	CORRESPONDENCE SYMBOL OWI
	DATE June 18, 2014

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 26-13

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS
STATE WORKFORCE ADMINISTRATORS
STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS
STATE LABOR COMMISSIONERS
NATIONAL FARMWORKER JOBS PROGRAM GRANTEES
SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM GRANTEES
YOUTHBUILD GRANTEES
INA PROGRAM GRANTEES
JOB CORPS OPERATORS

FROM: PORTIA WU /s/
Assistant Secretary

SUBJECT: Impact of the U.S. Supreme Court's Decision in *United States v. Windsor* on Eligibility and Services Provided Under Workforce Grants Administered by the Employment and Training Administration

1. Purpose. To advise you of the implications of the *Windsor* decision for ETA workforce grant programs.

2. References.

- Workforce Investment Act of 1998 (WIA), as amended (29 U.S.C 2801, et seq.);
- Workforce Investment Act of 1998 regulations, 20 CFR Part 652 et al;
- Wagner-Peyser Act, as amended (29 U.S.C. 49, et seq.);
- 2006 Older Americans Act Amendments (OAA) (Pub. L. 109-365, 42 U.S.C. 3056 et seq.);
- Training and Employment Guidance Letter (TEGL) No. 12-06, *Revised Income Inclusions and Exclusions and Procedures for Determining Senior Community Service Employment Program (SCSEP) Eligibility Attachment 2*;
- 38 U.S.C. 4215, Priority of service for veterans in Department of Labor job training programs;
- 20 CFR part 1010, Application of Priority of Service for Covered Persons;
- *United States v. Windsor*, 570 U.S. 12, 133 S. Ct. 2675 (2013); and

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- YouthBuild Transfer Act of 2006 (Pub. Law 109-281; 29 U.S.C. 2918a.
- TEGL No. 27-13, Impact of the U. S. Supreme Court’s Decision in *United States v. Windsor* on the Trade Adjustment Assistance Program;
- Unemployment Insurance Program Letter (UIPL) No. 14-14, Effect of the U. S. Supreme Court’s Decision in *United States v. Windsor* on the Federal-State Unemployment Compensation Program

3. Background. On June 26, 2013, the Supreme Court found that Section 3 of the Defense of Marriage Act (DOMA, codified at 1 U.S.C. section 7) violates the U.S. Constitution. Because that section no longer controls the definition of marriage or spouse under the federal framework for ETA workforce grant programs, DOMA no longer bars the recognition of same-sex marriages in such programs. The Department of Labor’s policy is to recognize lawful same-sex marriages as broadly as possible to the extent that federal law permits, and to recognize all marriages valid in the jurisdiction where the marriage was celebrated—i.e., the “state of celebration.”

4. ETA Policy On Same-Sex Marriages. Consistent with the policy of the Department of Labor, ETA’s policy is to recognize all marriages (including same-sex marriages) that are lawfully entered in the state of celebration. ETA will recognize the marriage even if the marriage is not recognized in the state where the married individual resides. For the purposes of this TEGL, “State” includes any state, Indian tribe, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, or any other territory, or possession of the United States, or any foreign jurisdiction that has the legal authority to sanction marriages so long as the marriage could have been entered into in a state.

At the time of issuance of this TEGL, 19 states and the District of Columbia allow same-sex marriage. State laws may change. For a current list of States that allow same-sex marriage, please visit the following Web site:

<http://answers.usa.gov/system/templates/selfservice/USAGov/#!portal/1012/article/4109/Same-Sex-Marriage-Laws>.

Consistent with ETA’s policy to recognize same-sex marriages as broadly as legally possible, we require grantees to develop policies recognizing such marriages as valid as soon as possible, unless the grantee is a “State grantee.” For purposes of this TEGL, a “State grantee” includes the subsets of a state such as a city or local board, any Indian tribe, the District of Columbia, Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau or any other territory, or possession of the United States that receives grants from ETA. Additionally, we will treat INA program grantees the same as state grantees for purposes of this TEGL. We strongly advise and

encourage such entities to honor all marriages that are valid in the state of celebration. However, we will not require a state grantee to honor a marriage recognized as valid in the state of celebration as we do require for a non-state grantee.

The effects of the *Windsor* decision on partner programs in the state workforce system are described in TEGL No. 27-13, Impact of the U.S. Supreme Court’s Decision in *United States v. Windsor* on the Trade Adjustment Assistance Program, and UIPL No. 14-14, Effect of the U. S. Supreme Court’s decision in *United States v. Windsor* on the Federal-State Unemployment Compensation Program.

5. ETA Policy On Interpreting Terms of Marriage in the Workforce Investment Act.

Consistent with the Supreme Court’s *Windsor* decision and with ETA’s policy of treating all individuals equally, regardless of sexual orientation, ETA interprets gender specific terms of marriage such as “widow,” “widower,” “husband,” and “wife,” to include married same-sex spouses. We find such gender specific terms in Section 101(15) Workforce Investment Act of 1998 (WIA) in the definition of “family,” codified at 29 U.S.C. § 2801(15):

(15) Family

The term “family” means two or more persons related by blood, marriage, or decree of court, who are living in a single residence, and are included in one or more of the following categories:

- (A) A husband, wife, and dependent children.
- (B) A parent or guardian and dependent children.
- (C) A husband and wife.

Interpreting the terms “husband” and “wife” to include same-sex spouses comports with *Windsor*’s rejection of the creation of “second-class marriages for purposes of federal law.” 133 S. Ct. at 2693-94. The Court concluded that Section 3 “violates basic due process and equal protection principles” by “impos[ing] a disadvantage, a separate status, and so a stigma upon all who enter into same-sex marriages made lawful by the unquestioned authority of the States.” *Id.* at 2693. Interpreting the gender-specific terms in WIA and those in other statutes to categorically exclude same-sex couples from the definition of “family”, etc., arguably has the same effect of diminishing the stability and predictability of legally recognized same-sex marriages and thereby raises significant due process and equal protection concerns.

The text of the WIA also permits a gender-neutral construction of these terms. The Dictionary Act, 1 U.S.C. section 1 is instructive here. The Dictionary Act provides, in part, that when “determining the meaning of any Act of Congress, unless the context indicates otherwise, ...words importing the masculine gender includes the feminine as well.” The purpose of this provision was to avoid having to “specify males and females by using a great deal of unnecessary language when one word would express the whole.” Cong. Globe, 41st Cong., 3d Sess. 777 (1871) (statement of Sen. Trumbull, sponsor of Dictionary Act). This provision has been read to require construction of the phrase “husband and wife” to include same-sex married couples. *See Pedersen*

v. Office of Personnel Mgmt., 881 F. Supp. 2d 294, 306-07 (D. Conn. 2012). The Dictionary Act thus supports interpreting the terms “husband” and “wife,” in a gender-neutral manner “unless the context indicates otherwise.” 1 U.S.C. § 1. “Context” for purposes of the Dictionary Act “means the text of the Act of Congress surrounding the word at issue, or the texts of other related congressional Acts.” *Rowland v. Cal. Men’s Colony, Unit II Men’s Advisory Council*, 506 U.S. 194, 199 (1993). Nothing in the surrounding text of the WIA forecloses a gender-neutral reading of the relevant terms.

In conclusion, although WIA’s definition of “family” uses the terms “husband” and “wife,” ETA requires non-state workforce grantees to apply these terms in a gender neutral manner as soon as possible so that same-sex married couples are included in the WIA definition of “family.” For state grantees, ETA encourages the grantee to interpret “family” to include same-sex spouses, but ETA will not require it.

6. Effects of ETA’s Policy on Workforce Grantees.

WIA Title I Youth Activities: In order to be eligible for youth activities under WIA section 101(13), an applicant must be a low-income individual as defined in the WIA section 101(25). This definition of a low-income individual takes into consideration family income compared to either the poverty line or to 70% of the lower living standard income level. Under WIA, only state grantees, as defined above in this TEGL, are eligible for WIA Title I Youth grants, and local areas in the State receive subgrants. Consistent with ETA’s policy stated above to recognize same-sex marriage as broadly as legally possible, we encourage grantees to include same-sex spouses within WIA’s definition of “family” as soon as possible. Interpreting “husband” and “wife” as gender neutral in WIA’s definition of “family” could change an individual’s family income and therefore impact his or her eligibility for youth activities.

WIA Title I Adult and Dislocated Worker Activities: Eligibility for WIA Title I Adult services likewise incorporates the definition of family, where low-income priority of service is a consideration (20 CFR 663.600(d) and Section 134(d)(4)(E) of WIA). Under WIA, only state grantees, as defined above in this TEGL, are eligible for WIA Title I Adult or Dislocated Worker grants, and local areas in the state receive subgrants. Consistent with ETA’s policy stated above, we encourage grantees to include same-sex spouses within WIA’s definition of “family” as soon as possible. Interpreting “husband” and “wife” as gender neutral in WIA’s definition of “family” could impact an individual’s family income calculation.

WIA Title I Adult and Dislocated Worker Program: Section 101(10) of WIA defines a “displaced homemaker” as an individual who has been providing unpaid services to family members in the home and who (A) has been dependent on the income of another family member but is no longer supported by that income; and (B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment. The definition of “displaced homemaker” is only used in the WIA Title I Adult and Dislocated Worker Programs. Consistent with ETA’s policy, we encourage state and local grantees, to include both genders as possible

“homemakers” and to include same-sex married couples as within the word “family.” Interpreting the word “family” in the term “family member” to include a same-sex spouse could result in previously non-qualifying individuals now qualifying as displaced homemakers.

WIA, Section 166, Indian and Native American Programs (INA Programs): Section 166 of WIA authorizes DOL to competitively award funds to Indian tribes, tribal organizations, Alaska Native entities, Indian-controlled organizations serving Indians, or Native Hawaiian organizations to support employment and training activities. Under 20 CFR 668.300(a), participant eligibility for INA program services requires at least one of five listed characteristics. One eligibility characteristic is “a low-income individual, as defined in WIA section 101(25).” 20 CFR section 668.300(b)(3). As mentioned above, this definition of low-income individual takes into consideration family income compared to either the poverty line or to 70% of the lower living standard income level. For purposes of this TEGL, we will treat INA grantees the same as state grantees. Therefore, consistent with ETA’s policy, we encourage INA program grantees to include same-sex spouses of a marriage that is valid in the “state of celebration” within WIA’s definition of “family.” Interpreting “husband” and “wife” as gender neutral in WIA’s definition of “family” could impact an individual’s family income calculation.

National Farmworker Jobs Program: To qualify as eligible for services from the National Farmworker Jobs Program (NFJP) under Section 167 of WIA, and under 20 CFR part 669, an individual must be a disadvantaged migrant and seasonal farmworker or a dependent of an eligible farmworker. A “dependent” may be the “spouse” of a qualifying farmworker (20 CFR 669.110). The regulation does not further define “spouse.” Therefore, consistent with ETA’s policy stated above, we require NFJP grantees, except for state grantees, to include same-sex spouses of a marriage that is valid in the “state of celebration.” If a state NFJP grantee does not recognize such marriages, we encourage (but will not require) the state grantee to recognize such a marriage.

Job Corps: Job Corps centers are operated under contracts or agreements with DOL, rather than grants. In addition to private entities, Federal, state, or local agencies are eligible to operate Job Corps centers. Section 147(a) of WIA. To be eligible for Job Corps, a participant must be a low-income individual. Section 144(2) of WIA. A participant may qualify as a low-income individual based on their “family income.” Consistent with ETA’s policy to recognize same-sex marriages as broadly as legally possible, we require Job Corps operators, except for state operators, to include same-sex spouses of a marriage that is valid in the “state of celebration” for purposes of determining family income. If a state operator does not recognize such marriages, we encourage (but will not require) the state operator to recognize such a marriage. ETA will separately issue a Job Corps Policy and Requirements Handbook change notice with further instructions for operators of Job Corps programs.

YouthBuild Program: Unlike the programs referred to above, YouthBuild was not originally part of WIA. Instead, the YouthBuild Transfer Act of 2006 amended WIA to add YouthBuild as a

WIA youth activities program at WIA section 173A, 20 USC 2918a. The statute establishes that although it is a WIA program, when considering participant eligibility, YouthBuild grantees must apply the definition of “low income family” at 42 USC 1437a(b)(2). Section 1437a(b)(3)(B) further clarifies the definition of family includes “spouses,” but the word “spouse” is not further defined. Therefore, consistent with ETA’s policy stated above, we require YouthBuild grantees, except for state grantees, to include same-sex spouses of a marriage that is valid in the “state of celebration.” If a state YouthBuild grantee does not recognize such marriages, we encourage (but will not require) the state grantee to recognize such a marriage.

Senior Community Service Employment Program: In TEGL 12-06, Attachment 2, Section 5, SCSEP’s Procedures for Calculating Family Income, SCSEP’s “Standard Definition of Family” mirrors WIA’s definition of family, including the words “husband” and “wife.” Consistent with ETA’s policy stated above, we require SCSEP non-state grantees to recognize same-sex spouses as within the SCSEP definition of “family.” ETA encourages state SCSEP grantees to include same-sex spouses in the definition of family, but will not require it. In furtherance of this policy, ETA will update the SCSEP Data Collection Handbook with a new definition of family income. Interpreting these terms as gender neutral could impact an individual’s family income calculation.

Eligible Spouses for Veterans’ Priority of Service: Pursuant to 38 U.S.C. 4215, all ETA workforce programs provide priority of service to veterans and certain spouses of veterans who qualify as “covered persons.” DOL has implemented the priority of service requirements in 20 CFR part 1010. 20 CFR 1010.110 defines a “covered person” as “a veteran or an eligible spouse.” It further defines “eligible spouse” as “the spouse of any of the following:

- (1) Any veteran who died of a service-connected disability;
- (2) Any member of the Armed Forces serving on active duty who, at the time of application for the priority, is listed in one or more of the following categories and has been so listed for a total of more than 90 days:
 - (i) Missing in action;
 - (ii) Captured in line of duty by a hostile force; or
 - (iii) Forcibly detained or interned in line of duty by a foreign government or power;
- (3) Any veteran who has a total disability resulting from a service-connected disability, as evaluated by the Department of Veterans Affairs;
- (4) Any veteran who died while a disability, as indicated in paragraph (3) of this section, was in existence.”

The regulation does not further define “spouse.” Consistent with ETA’s policy stated above, we require workforce grantees, other than state grantees, to include as a “covered person” the same-sex spouse of a veteran who is in one of the above categories where the marriage was valid in the state of celebration. If a state grantee does not recognize same-sex marriages, we encourage but will not require the state grantee to recognize the marriages for the purposes of these provisions.

7. **Action Requested.** Now that DOMA no longer bars their recognition of same-sex marriages in federal statutes such as WIA, and consistent with ETA's policy to recognize lawful marriages as broadly as possible, ETA requests all grantees of ETA workforce programs to review their policies and procedures currently in place on the recognition of same-sex marriages and revise their policies accordingly as soon as possible. ETA will consider such policies as effective as soon as the grantee indicates they are effective. (ETA will consider them effective immediately unless otherwise indicated.)

ETA will not require grantees to make their policies retroactive. Grantees will not need to go back and analyze whether current participants should be removed from eligibility based on the information in this TEGP. However, if you believe former applicants were declined eligibility because of your previous policy and may now be eligible because of the new policy, we encourage you to reach out to those former applicants and let them know they may now be eligible.

8. **Inquiries.** Please direct any questions about DOL's recognition of same-sex marriages to your appropriate ETA regional office.

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION OWI
	CORRESPONDENCE SYMBOL WIA
	DATE July 14, 2014

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 02-14

TO: AMERICAN JOB CENTERS
STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
STATE WORKFORCE LIAISONS
STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS
ALL WIA GRANT RECIPIENTS

FROM: PORTIA WU /s/
Assistant Secretary

SUBJECT: Eligibility of Deferred Action for Childhood Arrivals Participants for Workforce Investment Act and Wagner-Peyser Act Programs

1. **Purpose.** The purpose of this Training and Employment Guidance Letter (TEGL) is to provide guidance to states and grantees concerning the eligibility of individuals granted relief under the Deferred Action for Childhood Arrivals (DACA) Initiative (DACA participants) with employment authorization documents (employment authorization) for program eligibility for Workforce Investment Act (WIA) programs and Wagner-Peyser Act programs.

2. **References.**

- Title I, WIA, as amended (29 U.S.C. 2801 *et seq.*);
- The Wagner-Peyser Act, as amended (29 U.S.C. 49 *et seq.*);
- Chapter 2 of Title II of the Trade Act of 1974, as amended (Pub. L. 93-618) (1974 Act and, as amended, Trade Act); and
- Training and Employment Guidance Letter (TEGL) No. 25-04, *Participant Eligibility Guidance* (April 11, 2005).

3. **Background.** On June 15, 2012, Department of Homeland Security (DHS) announced its “Deferred Action for Childhood Arrivals” (DACA) process for individuals who came to the United States as children and meet the following key guidelines:

- Were under the age of 31 as of June 15, 2012;
- Came to the United States before reaching their 16th birthday;
- Have continuously resided in the United States since June 15, 2007, up to the present time;
- Were physically present in the United States on June 15, 2012, and at the time of making their request for consideration of deferred action with U.S. Citizenship and Immigration Services (USCIS);

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- Entered without inspection before June 15, 2012, or their lawful immigration status expired as of June 15, 2012;
- Are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or other equivalent State-authorized exam in the United States, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and
- Have not been convicted of a felony, significant misdemeanor, three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.

The DACA process may result in a 2-year period of “deferred action,” or relief from removal from the country or from entering into removal proceedings, subject to renewal, and issuance of employment authorization for the period of deferred action. Under existing regulations, an individual whose case has been deferred is eligible to receive employment authorization for the period of deferred action, provided he or she can demonstrate “an economic necessity for employment.”

Section 188 of WIA contains a specific nondiscrimination provision that provides that participation in WIA is available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States. Individuals with employment authorization qualify under this provision as “immigrants authorized by the Attorney General to work in the United States.” Therefore, DACA participants with employment authorization may access any WIA services for which they otherwise would qualify.

4. **Workforce Investment Act Programs.** This TEGL applies to all programs authorized under WIA, including: Adult, Dislocated Worker, and Youth formula programs; National Emergency Grants; Section 166 Indian and Native American Program; Section 167 National Farmworker Jobs Program; Reintegration of Ex-Offender Program; YouthBuild; and Job Corps.

State Workforce Agencies and WIA grant recipients must have policies and procedures in place to ensure that the intensive or training services provided to DACA participants under WIA programs are limited to those DACA participants who have employment authorization. Appropriate documentation of employment authorization must include self-attestation at a minimum. The appropriate method of verifying an applicant’s employment authorization will depend upon the requirements and needs of the particular program, including, but not limited to the:

- nature of the benefits to be provided;
- need for benefits to be provided on an expedited basis;
- length of time during which benefits will be provided;
- cost of providing the benefits;
- length of time it will take to verify based on a particular method; and
- cost of a particular method of verification.

For example, it would be impractical and administratively burdensome to require individuals seeking self-services to be screened for employment authorization as doing so would require a greater investment of resources than likely cost savings. In contrast, a higher level of verification may be appropriate for the longer and more costly services such as training.

5. **Job Corps.** Section 188's nondiscrimination provision applies to the Job Corps program, which is authorized under title I-C of WIA. As a result, DACA participants who meet program eligibility requirements qualify for Job Corps if they have employment authorization. ETA will separately issue a Job Corps Policy and Requirements Handbook change notice with further instructions for operators of Job Corps programs.
6. **National Farmworker Jobs Program.** TEGL No. 25-04 describes eligibility determination requirements for the WIA National Farmworker Jobs Program (NFJP). As indicated in that TEGL, NFJP grantees are required to have an eligibility determination system that enables the generation of a record supporting eligibility determinations and enrollment decisions. Under that longstanding guidance, the Department expects NFJP grantees to obtain source documentation that verifies the information provided by applicants for eligibility elements, including employment authorization. That TEGL also provides that, for NFJP, self-certification alone cannot be used for employment authorization, and employment authorization must be verified with documentation. NFJP grantees must continue to ensure that their eligibility determination procedures for all applicants, including DACA participants, with employment authorization are consistent with the requirements in TEGL No. 25-04.
7. **Wagner-Peyser Act.** The Wagner-Peyser Act provides employment services to help individuals find meaningful employment and to help employers find the skilled workers that they need. While Wagner-Peyser Act services are not authorized by WIA, they are often delivered alongside WIA services by American Job Centers. Wagner-Peyser Act services are available to all DACA participants.
8. **Resources.** DOL is sharing the DACA resources below to provide accurate information to people who may be eligible to apply for DACA.
 - DACA information and resource are available in English www.uscis.gov/childhoodarrivals and Spanish www.uscis.gov/acciondiferida.
 - Information on how to avoid immigration scams are in English www.uscis.gov/avoidscams and Spanish www.uscis.gov/eviteestafas.
 - "How Do I" guides, including How Do I Request Consideration of Deferred Action for Childhood Arrivals (DACA), are located at www.uscis.gov/howdoi.
9. **Action Requested.** Recipients of this guidance are required to share the TEGL with all appropriate State Workforce Agency, American Job Center, and WIA grantee staff. Recipients are also encouraged to post the resources listed above.

10. **Inquiries.** Additional information on DACA is available from DHS and USCIS at www.dhs.gov/deferred-action-childhood-arrivals and www.uscis.gov/childhoodarrivals. Please direct questions regarding this guidance to the appropriate ETA Regional Office.

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WIA/Performance Reporting
	CORRESPONDENCE SYMBOL OPDR
	DATE September 10, 2014

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 6-14

TO: DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING
ADMINISTRATION REGIONAL ADMINISTRATORS
STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
NATIONAL FARMWORKER JOBS PROGRAM GRANTEEES
INDIAN AND NATIVE AMERICAN PROGRAM GRANTEEES

FROM: PORTIA WU /s/
Assistant Secretary

SUBJECT: Program Year (PY) 2013/Fiscal Year (FY) 2014 Data Validation and Performance Reporting Requirements and Associated Timelines

1. **Purpose.** To remind the workforce investment system of data validation and performance reporting requirements and establish associated timelines for submitting reports for the following programs/activities:
 - Quarterly participant records, annual reports, and data validation results for the Workforce Investment Act (WIA) title IB programs and National Emergency Grants (NEGs);
 - Quarterly participant records and data validation results for the Wagner-Peyser Act Employment Service;
 - Quarterly reports for activities authorized under 38 U.S.C. 4103A and 4104 (Disabled Veterans' Outreach Program (DVOP) and Local Veterans' Employment Representatives (LVER));
 - Quarterly reports, participant records, and data validation results for the Trade Adjustment Assistance (TAA) program;
 - Individual participant records for the National Farmworker Jobs Program (NFJP); and
 - Individual participant records for the Division of Indian and Native American Program (DINAP).

2. **References.**
 - WIA of 1998, Sections 136 and 185;
 - 20 CFR 667.300;

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- Training and Employment Guidance Letter (TEGL) 17-05 and Change 2, *Common Measures Policy for the Employment and Training Administration's (ETA) Performance Accountability System and Related Performance Issues*;
- TEGL 9-07, *Revised Incentive and Sanction Policy for Workforce Investment Act Title IB Programs*;
- TEGL 17-09, *Quarterly Submission of Workforce Investment Act Standardized Record Data (WIASRD)*;
- TEGL 7-12, *Implementing the Veterans-Related and Other Reporting Change Requirements in the Labor Exchange Reporting System (LERS)*;
- TEGL 28-11, *Program Year 2011/Fiscal Year 2012 Performance Reporting and Data Validation Timelines*, and Change 1;
- TEGL 4-13, *Workforce Investment Act (WIA) Performance Reporting System*; and
- TEGL 6-13, *Workforce Investment Act (WIA) Program Year (PY) 2012 Annual Report Narrative*.

3. **Background.** The Employment and Training Administration's (ETA) statutory and regulatory authority to administer job training and employment programs includes provisions requiring performance reporting from states and grantees. The Department uses this information to assess performance of states and grantees. All states and direct grantees administering Department of Labor (Department) employment and training programs must collect and report information on all participants.

Each state that receives an allotment under WIA Section 127 or Section 132 must submit an ETA Form 9090 (WIA Quarterly Report) to provide the Department with available performance information for WIA participants. The WIA Quarterly Report will cover the following formula funded programs:

- WIA Adult Program;
- WIA Dislocated Worker Program;
- WIA Youth Program; and
- NEGs (except Health Care Tax Credit grants).

Wagner-Peyser Act funded services are reported on the ETA Form 9002 A for all participants and on the ETA Form 9002 B, specifically for participants who are veterans, eligible spouses, or transitioning service members. The Veterans' Employment and Training Service (VETS) 200 Reports are a subset of the ETA Form 9002 data. The data reported on VETS 200 only apply to the activities of participants who received one or more services from LVERs and DVOPs. This enables VETS to evaluate the outcomes of the more intensive services offered to participants under these two programs.

Each state must also prepare and submit an annual report of performance progress to the Secretary of Labor (Secretary) in accordance with WIA Sections 136 and 185. There are two components to the WIA Annual Report: (1) the required performance results, as specified in ETA Form 9091, "WIA title 1B Annual Report" (OMB No. 1205-0420) found at: <http://www.doleta.gov/performance/guidance/WIA/WIAAnnualReportSpecifications.pdf>, and (2) a narrative report. The Secretary utilizes the annual reports to fulfill the requirement

of disseminating state-by-state comparisons of the information. Additionally, this information is used to determine states' eligibility for incentive grants or whether the Secretary will impose a sanction based on performance failure. See TEGL 9-07 for further information.

4. **Use of the Enterprise Data Reporting and Validation System (E-DRVS) for Program Reporting.** Submission of timely and accurate data is required in Section 136 of WIA. In 2003, ETA introduced data validation to help states and grantees ensure that their reported performance data accurately reflects their experiences. ETA provides software to states and grantees which analyze participant records and ensure performance calculations are accurate. E-DRVS is the online integrated reporting and validation tool where states can upload individual record files, validate and edit check the data, create quarterly/annual reports, and perform data element validation. E-DRVS eliminates the need to upload annual or quarterly records into Enterprise Business Support System (EBSS).
5. **Performance Reporting and Data Validation for the WIA Title IB Programs.** For each program year, states are required to submit the following reports (when specified due dates are on a Saturday or Sunday, the report is due the following Monday):

- A. **Workforce Investment Act Standardized Record Data (WIASRD) files and Quarterly Performance Reports (ETA 9090)**

WIASRD quarterly submissions for the first, second, third, and fourth quarters of each program year are due **45** days following the end of the quarter (November 14th, February 14th, and May 15th, and August 14th, respectively).

Submit all quarterly WIASRD files via E-DRVS using the revised layout. As additional revisions to the layout/edit check documents are made, they will be posted at the ETA performance site: <http://www.doleta.gov/performance/pro.cfm>. A notice will be sent to state performance reporting staff if/when further revisions are made.

- B. **Validated WIA Annual Report (ETA 9091 - OMB No. 1205-0420) Tables A through Q – Due no later than September 15th.**

In previous WIA annual report submissions, states were required to first complete report validation prior to submitting annual report data tables. However, with the adoption of E-DRVS, report validation is no longer needed. With the ETA 9091 report being calculated from the uploaded WIA individual record file, there will be no deviation from ETA's formulas and consequently report validation is not necessary.

The fourth quarter WIASRD submission to E-DRVS will automatically generate *both* the ETA 9090 and ETA 9091 reports. **Consequently, any further WIASRD submissions through September 15 will overwrite a previously certified ETA 9090 fourth quarter report generating a revised ETA 9090 report with new numbers.** Therefore, it is important to remember to recertify any fourth quarter report created after August 14th.

States and other jurisdictions approved to report only the common performance measure outcomes for WIA programs for the program year in question do not have to report outcomes for the customer satisfaction measures, the credential measure for Adults and Dislocated Workers, or the Older and Younger Youth measures on the WIA Annual Report. However, regarding the customer satisfaction survey, methodologies and results should be addressed in the narrative portion of the report by ALL states. A separate TEGL will address the narrative requirements. All states are required to report outcomes for the youth common performance measures.

States that are approved to report only the common performance measure outcomes should reference Attachment B of this TEGL, which contains the WIA Annual Report format with grayed out fields to indicate the information that is not required as part of the state's annual report submission.

Data element validation, using the file of exiters and participants reported on the ETA 9091, must be completed through E-DRVS by February 1st following the due date of the WIA annual narrative for the program year being submitted. Please see Attachment A of this TEGL for the source documentation requirements for WIA data element validation.

C. WIA Annual Report Narrative – Due no later than November 14th.

States should e-mail electronic copies of their narrative annual report to WIA.AR@dol.gov and their Regional Administrator no later than November 14th. Starting with the PY 2013 WIA Annual Report Narrative submission, all report narratives should be submitted as a machine readable (compliant with Section 508 of the Rehabilitation Act) PDF document for Web posting. Guidance in a forthcoming TEGL regarding the WIA Annual Report Narrative, as well as previous guidance such as TEGL 6-13, specifically identifies the required portions that states must provide and portions that states are encouraged to provide.

6. Performance Reporting and Data Validation for Other State-Based Programs.

- A. **Wagner-Peyser Employment Service.** States are required to submit the Wagner-Peyser individual record file (OMB No. 1205-0240) on a quarterly basis. Like WIA, quarterly reports are required to be submitted through E-DRVS and certified in EBSS no later than 45 days after the end of each calendar quarter. **States must submit their fourth quarter reports no later than the first Friday after the Labor Day holiday.** This additional time beyond the usual time allowed for Wagner-Peyser quarterly reports is to allow for data element validation to be performed and to provide extra review of the fourth quarter report. Please see the appropriate attachment(s) in this guidance for the exact due date.

In each program year, the Wagner-Peyser Employment Service submission requires data element validation. A minimal data element validation sample of 25 job seekers must be reviewed and compared to state-level data prior to certifying the ETA 9002 and VETS

200 reports to ensure that the files used to conduct report validation were properly constructed. All states are required to perform data element validation using the E-DRVS. As with the WIASRD, E-DRVS acts as the reporting mechanism for Wagner-Peyser. As such, states are no longer required to upload aggregate results to EBSS.

- B. Trade Adjustment Assistance.** Since the TAA program operates on a fiscal year basis, the Trade Act Participant Report (TAPR) is based on a year that begins on October 1st and end on September 30th. States are required to submit the TAPR on a quarterly basis, no later than 45 days after the end of the report quarter (see Attachments E or F for due dates). States administering TAA programs are not required to submit an annual report; states are required to submit individual participant records only for TAA.

To align with the WIA data element validation (DEV) due date, TAA DEV is due, via EBSS, on February 1st following the due date of the third quarter TAPR file for the program year being submitted. A user guide is available on the TAA Web site at www.doleta.gov/tradeact (locate the 'TAA DEV User Guide' under the "Research" drop down menu, found in the horizontal menu bar on the home page) to assist states in accessing and using the TAA DEV report application.

7. **Data Validation for NFJP.** Grantees administering NFJP are not required to submit a performance outcomes report. Grantees are required to submit individual participant records for NFJP, which are used by ETA to calculate the performance outcomes for each grantee. Therefore, grantees are not required to conduct report validation, but must conduct data element validation.

The final NFJP participant data are due to ETA's contractor (Social Policy Research Associates) by May 15th of the year following the end of the program year. **Data element validation for each program year must be submitted to ETA by November 1st in the year after the end of the program year.** Please see Attachments E and F for due dates and Attachment D for the source documentation requirements for NFJP data element validation. NFJP grantees should use NFJP Data Validation Software Version 2.0.

8. **DINAP Reporting.** Grantees administering DINAP are not required to submit a performance outcomes report. However, grantees are required to submit a Standard Participant Individual Record file for DINAP participants each quarter, which is used by ETA to calculate the performance outcomes for each grantee. The only performance outcomes for DINAP are: Entered Employment, Employment Retention and Average Earnings.
9. **Data Reporting and Validation Resources.** As previously mentioned one of the criteria for incentive eligibility is that the data used to compute the performance outcomes must be accurate and submitted on time. ETA provides the following resources to grantees in order to assist them in reporting timely and accurate data.

- WIA Annual and Quarterly Report handbooks are available at:
<http://www.doleta.gov/performance/reporting>

- Data validation software applications and User Guides for each program are at: http://www.doleta.gov/performance/reporting/tools_datavalidation.cfm
 - For assistance with WIA Quarterly reporting timeframes for each measure based on both the year and quarter, an auto-populating spreadsheet is available at: <http://www.doleta.gov/performance/guidance/WIA/WIAQuarterlyReportingTimeFrames.xls>. The annual report timeframes can be derived from this spreadsheet by selecting the year and the fourth quarter.
- 10. Training and Technical Assistance.** States and grantees are encouraged to request technical assistance on validation procedures and the use of the reporting and validation tools by contacting regional and/or national office program staff.
- 11. Action Requested.** States and grantees should: 1) distribute this guidance to appropriate staff; 2) complete report and data validation activities within the timeframes established in sections 5, 6, and 7 of this guidance; and 3) provide the appropriate regional office with updates on the reporting and validation process.
- 12. Inquiries.** Questions regarding performance reporting should be directed to the appropriate ETA regional office, or to the Office of Policy Development and Research at ETAperforms@dol.gov.
- 13. Attachments.**
- Attachment A:** Source Documentation Requirements for Program Year (PY) 2013 Workforce Investment Act (WIA) Data Element Validation
- Attachment B:** Workforce Investment Act (WIA) Annual Report Requirements for States Approved to Report Against the Common Performance Measures Only
- Attachment C:** Trade Adjustment Assistance (TAA) Data Element Validation
- Attachment D:** Source Documentation Requirements for National Farmworker Job Program (NFJP) Data Element Validation
- Attachment E:** Program Year 2013/Fiscal Year 2014 Performance Reporting and Data Validation Timelines
- Attachment F:** Program Year 2014/Fiscal Year 2015 Performance Reporting and Data Validation Timelines

ATTACHMENT D

**SOURCE DOCUMENTATION REQUIREMENTS FOR NATIONAL
FARMWORKER JOB PROGRAM (NFJP)
DATA ELEMENT VALIDATION**

This appendix presents the data elements to be validated with their associated WIASPR number, element definitions, valid values, federal validation sources, state/grantee sources, and validation instructions needed to perform data element validation. The federal sources are the generic, federally recommended source documentation. The "State/Grantee Sources" column can be used to enter grantee-specific versions of the federally approved documentation.

Two types of validation rules exist:

1. If the validation instruction cell says MATCH: Enter a checkmark in the box in the pass column if the data on the validation worksheet match the data in the source documentation. Enter a checkmark in the box in the fail column if the data on the worksheet do not match the data in the source documentation or if no source documentation is found. To match, the data on the worksheet must be the same as the data in the source documentation. For example, if the worksheet says a participant's date of birth is July 1, 1975, then the source documentation must also have July 1, 1975 as the birth date.

2. If the validation instruction says SUPPORT: Enter a checkmark in the box in the pass column if the data on the validation worksheet are supported by the data in the source documentation. Enter a checkmark in the box in the fail column if the data on the worksheet are not supported by the data in the source documentation or if no source documentation is found. To support, the data on the worksheet must be similar to the data in the source documentation. This instruction is used when information must be interpreted or processed before it can be applied to the participant's records. For example, source documentation can support farmworker status in different ways, by a code or narrative or other information.

For the most part, the definition of a particular source is clear. Grantees may, however, have questions about three sources—Grantee Management Information System (MIS), Self-Attestation, and Case Notes. Definitions for these three types of source documentation are:

1. MIS: Unless otherwise noted, MIS refers to specific, detailed information which supports an element that is stored in the grantee's information system. An indicator alone, such as a checkmark on a computer screen, is not acceptable source documentation. For example, a grantee's MIS is acceptable source documentation for date of exit if it identifies the last service received in addition to the date on which that service was received.
2. Self-Attestation: Self-attestation occurs when a participant states his or her status for a particular data element and then signs and dates a form acknowledging this status. The key elements for self-attestation are: (a) the participant identifying his or her status for permitted elements and (b) the signing and dating of a form attesting to this self-identification. The form and signature can be on paper or in the state management information system, with an online signature.
3. Case Notes: Case notes refer to either paper or electronic statements by the case manager that identifies, at a minimum, the following: a participant's status for a specific data element, the date on which the information was obtained, and the case manager who obtained the information.

WIASPR Item Name and Number	Data Element Definition	Valid Values	Federal Sources	State/Grantee Sources	Instructions
4. Date of Participation	Record the date on which the individual begins receiving his/her first service funded by the program following a determination of eligibility to participate in the program.	YYYYMMDD	Grantee Administrative Records		Match
5. Date of Birth	Record the individual's date of birth.	YYYYMMDD	Family bible; birth certificate; passport; driver's license; baptismal record; I-9 form		Match
9. Qualifies for Sec. 167 Program as a:	Record appropriate status of the participant. SPECIAL NOTE: If a participant qualifies as eligible under both categories, use Code 1 – Farmworker.	1 = Farmworker 2 = Dependent or Spouse of a Farmworker	Pay stubs; W-2 forms; IRS 1040 forms; case manager/counselor intake notes; self attestation		Support
11. Farmworker Status	Use the appropriate code to record the status of the participant at the time of eligibility determination. SPECIAL NOTE: Where participant is a dependent of a farmworker, record the status of the eligible farmworker.	1 = Migrant Farmworker 2 = Seasonal Farmworker	Pay stubs; W-2 forms; IRS 1040 forms; case manager/counselor intake notes; self attestation		Support
13b. Number of Individuals in the Family	Record the total number of individuals in the family, including the participant.	00	Birth certificate; family bible; IRS 1040 forms		Match

WIASPR Item Name and Number	Data Element Definition	Valid Values	Federal Sources	State/Grantee Sources	Instructions
16. Employment Status at Participation	<p>Record 1 if the participant is a person who either (a) did any work at all as a paid employee, (b) did any work at all in his or her own business, profession, or farm, (c) worked 15 hours or more as an unpaid worker in an enterprise operated by a member of the family, or (d) is one who was not working, but has a job or business from which he or she was temporarily absent because of illness, bad weather, vacation, labor-management dispute, or personal reasons, whether or not paid by the employer for time off, and whether or not seeking another job.</p> <p>Record 2 if the participant is a person who, although employed, either (a) has received a notice of termination of employment or the employer has issued a Worker Adjustment and Retraining Notification (WARN) or other notice that the facility or enterprise will close, or (b) is currently on active military duty and has been provided with a date of separation from military service.</p> <p>Record 3 if the participant does not meet any one of the conditions described above.</p>	<p>1 = Employed 2 = Employed, but Received Notice of Termination of Employment or Military Separation 3 = Not Employed</p>	Pay stub, case notes showing information collected from participant		Support

WIASPR Item Name and Number	Data Element Definition	Valid Values	Federal Sources	State/Grantee Sources	Instructions
17. Six Month Pre-Program Earnings	Record the total pre-program earnings of the participant for the 6-month period prior to the date of application in the program. Earnings include salaries or wages, and also include any bonuses, tips, gratuities, and commissions or overtime pay earned. Record 00000 if there were no earnings during this period.	00000	Pay stubs; W-2 forms; employer payroll records; IRS 1040 forms; administrative/UI wage records; self attestation; detailed case management notes		Match
21e. Long-term Agricultural Employment	Record 1 if the participant is a person who has engaged in agricultural work as the primary source of income for a minimum of four (4) years prior to intake/eligibility determination. Record 2 if the participant does not meet the conditions described above.	1 = Yes 2 = No	IRS 1040 forms; pay stub; intake application; case manager/counselor progress notes; self-attestation		Support
24. Date of First Intensive Service	Record the date on which the participant first received intensive services. Intensive services include specialized assessments of skill levels, work experience, diagnostic testing, adult basic education or English as a Second Language (ESL) training, development of an individual employment plan, group or individual counseling, case management for participants seeking training services, short-term prevocational services, and remedial reading, writing, or communication skills training. Otherwise, leave "blank" if the participant did not receive intensive services.	YYYYMMDD	Case manager/counselor progress notes with signature; IEP assessment and diagnostic testing		Match

WIASPR Item Name and Number	Data Element Definition	Valid Values	Federal Sources	State/Grantee Sources	Instructions
25. Date of First Training Service	Record the date on which the participant first received training services. Training services include, but are not limited to, occupational skills training; OJT; skill upgrading; entrepreneurial training; and job readiness training. Otherwise, leave "blank" if the participant did not receive training services.	YYYYMMDD	Case manager/counselor certification signature; employer signed document; attendance records from institution or instructor		Match
33. Date of Exit	Record the date on which the last service funded by the program or a partner program is received by the participant. Once a participant has not received any services funded by the program or a partner program for 90 consecutive calendar days and has no gap in service and is not scheduled for future services, the date of exit is applied retroactively to the last day on which the individual received a service funded by the program or a partner program.	YYYYMMDD	Case manager/counselor termination notice; case manager/counselor progress tracking report; grantee MIS		Match

WIASPR Item Name and Number	Data Element Definition	Valid Values	Federal Sources	State/Grantee Sources	Instructions
34. Category of Exit	<p>Record 1 if the participant received and/or completed any job-related core (beyond core informational or self-services, and eligibility determination), intensive, or training services.</p> <p>Record 2 if the participant received non-job related services, without having received job-related core, intensive, or training services.</p> <p>Record 3 if the participant did not complete the program and exited for other reasons, as specified in Item 35 below.</p> <p>SPECIAL NOTE: Individuals who receive training-related services AND intensive, or training services should be coded 1.</p>	<p>1 = Employment and Training Exiter</p> <p>2 = Related Assistance Services ONLY Exiter</p> <p>3 = Other Reasons for Exit</p>	Grantee administrative records		Support

WIASPR Item Name and Number	Data Element Definition	Valid Values	Federal Sources	State/Grantee Sources	Instructions
<p>35. Other Reasons for Exit (at time of exit or during 3-quarter measurement period following the quarter of exit)</p>	<p>Record 1 if the participant is residing in an institution or facility providing 24-hour support such as a prison or hospital and is expected to remain in that institution for at least 90 days. Record 2 if the participant is receiving medical treatment that precludes entry into unsubsidized employment or continued participation in the 167 program. Does not include temporary conditions expected to last for less than 90 days. Record 3 if the participant was found to be deceased or no longer living. Record 4 if the participant entered advanced training. Advanced training includes an occupational skills employment/training program, not funded under Title I of WIA, which does not duplicate training received under Title I. This category includes only training outside of the 167 program, One-Stop, WIA and partner system. Record 5 if the participant entered post-secondary education. Post-secondary education includes a program at an accredited degree-granting institution that leads to an academic degree (e.g., AA, AS, BA, BS). This does not include entry into post-secondary education programs offered by degree-granting institutions that do not lead to an academic degree.</p>	<p>1 = Institutionalized 2 = Health/Medical 3 = Deceased 4 = Entered Advanced Training 5 = Entered Post-Secondary Education 6 = Moved/Cannot Locate/Voluntary Separation 7 = Family Care 8 = Reserve Forces Called to Active Duty 9 = Not a Valid SSN</p>	<p>Grantee administrative records</p>		<p>Support</p>

WIASPR Item Name and Number	Data Element Definition	Valid Values	Federal Sources	State/Grantee Sources	Instructions
35. Other Reasons for Exit (continued)	<p>Record 6 if the participant cannot be located or has moved to an area that prevents them from completing their program, or has voluntarily left the program.</p> <p>Record 7 if the participant is providing care for a family member with a health/medical condition that precludes entry into unsubsidized employment or continued participation in the program. Does not include temporary conditions expected to last for less than 90 days.</p> <p>Record 8 if the participant is a member of the National Guard or other reserve military unit and is called to active duty for at least 90 days.</p> <p>Record 9 if the social security number of the participant is not valid.</p>				
36. Date Placed in Unsubsidized Employment	<p>Record 0 or leave "blank" if the participant exited for a reason other than one of the conditions described above.</p> <p>Record the date on which the participant was placed into unsubsidized employment. Leave this field blank if the participant did not enter unsubsidized employment.</p>	YYYYMMDD	Case manager/counselor progress notes		Match

WIASPR Item Name and Number	Data Element Definition	Valid Values	Federal Sources	State/Grantee Sources	Instructions
41. Employed in the 1 st Quarter After Exit Quarter	Record 1 if the participant was employed in the first quarter after the quarter of exit. Record 2 if the participant was not employed in the first quarter after the quarter of exit. Record 3 if information on the participant's employment status in the first quarter after the quarter of exit is not yet available.	1 = Yes 2 = No 3 = Information Not Yet Available	Pay stubs; employer payroll records; IRS 1040 forms; case manager/counselor progress notes; self-attestation		Support
42. Employed in the 2 nd Quarter After Exit Quarter	Record 1 if the participant was employed in the second quarter after the quarter of exit. Record 2 if the participant was not employed in the second quarter after the quarter of exit. Record 3 if information on the participant's employment status in the second quarter after the quarter of exit is not yet available.	1 = Yes 2 = No 3 = Information Not Yet Available	Pay stubs; employer payroll records; IRS 1040 forms; case manager/counselor progress notes; self-attestation		Support
43. Employed in the 3 rd Quarter After Exit Quarter	Record 1 if the participant was employed in the third quarter after the quarter of exit. Record 2 if the participant was not employed in the third quarter after the quarter of exit. Record 3 if information on the participant's employment status in the third quarter after the quarter of exit is not yet available.	1 = Yes 2 = No 3 = Information Not Yet Available	Pay stubs; employer payroll records; IRS 1040 forms; case manager/counselor progress notes; self-attestation		Support

WIASPR Item Name and Number	Data Element Definition	Valid Values	Federal Sources	State/Grantee Sources	Instructions
44. Wages 2 nd & 3 rd Quarters After Exit Quarter	<p>Record the total earnings earned by the participant in the second and third calendar quarters after the quarter of exit. Total earnings include any bonuses, tips, gratuities, commissions, and overtime pay earned.</p> <p>Note: Enter whole dollar amounts (00000). Enter 99999 if data are not yet available for this item. Otherwise, leave "blank" if this data element does not apply.</p>	00000	Pay stubs; employer payroll records; IRS tax forms; administrative/UI wage records; case manager/counselor progress notes with signature		Match