

**TOWN OF HEMPSTEAD/CITY OF LONG BEACH  
LOCAL WORKFORCE DEVELOPMENT BOARD  
REQUEST FOR PROPOSALS FOR  
CAREER SERVICES FOR ADULTS AND  
DISLOCATED WORKERS**

**PROGRAM YEARS 2021 and 2022  
JULY 1, 2021 THROUGH JUNE 30, 2023**

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## I. Introduction

This solicitation of proposals is being conducted by the Town of Hempstead Department of Occupational Resources (DOOR) on behalf of the Town of Hempstead Local Workforce Development Board (LWDB) in its capacity as the Grant Subrecipient/Fiscal Agent for the Town of Hempstead/City of Long Beach Local Workforce Development Area under the Workforce Innovation and Opportunity Act (WIOA) of 2014 and all related statutes and regulations. DOOR is requesting proposals from qualified organizations to provide **Career Services for Adults and Dislocated Workers**.

To be considered, the applicant must be an incorporated for-profit or non-profit organization, or a public agency, and have successfully provided workforce development services funded under federal or state legislation for a minimum of three (3) years.

**Priority will be given to organizations who conduct WIOA program-related services that are allocable to the WIOA Administration Cost Category on an in-kind basis. A list of WIOA services that must be allocated to the Administration Cost Category is included as Addendum IV.** The period of performance is May 1, 2021 through June 30, 2023. Contractual agreements negotiated pursuant to this RFP will commence upon execution and end on June 30, 2023, with options for renewal at the discretion of the Town of Hempstead Local Workforce Development Board.

Completed proposals must be received by DOOR no later than 4:30 P.M. on **Friday, April 16, 2021**.

## II. Background

In accordance with WIOA, the Local Board has implemented the **HempsteadWorks Workforce System**. The mission of the system is to:

- ◆ Ensure that skilled workers are available to employers;
- ◆ Help jobseekers find work;
- ◆ Foster economic development.

HempsteadWorks is designed to provide customers with workforce development services through a "One-Stop" delivery system. The One-Stop Partners of the system integrate their resources electronically and also through co-location of staff. The official Web site of the system is: [www.hempsteadworks.com](http://www.hempsteadworks.com). Co-location of staff is accomplished by teams comprised of individuals from a variety of independent organizations. These individuals adhere to common standards and reporting formats contained in the One-Stop Operating System (OSOS) and the HempsteadWorks Quality Assurance Program (HWQAP).

### **III. Contact Information**

Elizabeth Ajasin  
Town of Hempstead  
Department of Occupational Resources  
Hempstead Executive Plaza  
50 Clinton Street, Suite 400  
Hempstead, New York 11550  
(516) 485-5000  
[eajasin@hempsteadworks.com](mailto:eajasin@hempsteadworks.com)

#### IV. Scope of Services

The Workforce Innovation and Opportunity Act (2014) was enacted “to amend the Workforce Investment Act of 1998 to strengthen the United States workforce development system through innovation in, and alignment and improvement of, employment, training, and education programs in the United States, and to promote individual and national economic growth, and for other purposes.” Pursuant to WIOA, Subtitle B, Chapter 1, section 121, the LWDB oversees a one-stop delivery system. Under this RFP, the LWDB is soliciting proposals from qualified applicants to provide a scope of services consistent with the “Local Employment and Training Activities” described under Section 134 (c) (2) of WIOA. An excerpt of this section is provided in quotations below:

“Funds described in paragraph (1) shall be used to provide career services, which shall be available to individuals who are adults or dislocated workers through the one-stop delivery system and shall, at a minimum, include—

- (i) determinations of whether the individuals are eligible to receive assistance under this subtitle;
- (ii) outreach, intake (which may include worker profiling), and orientation to the information and other services available through the one-stop delivery system;
- (iii) initial assessment of skill levels (including literacy, numeracy, and English language proficiency), aptitudes, abilities (including skills gaps), and supportive service needs;
- (iv) labor exchange services, including— (I) job search and placement assistance and, in appropriate cases, career counseling, including— (aa) provision of information on in-demand industry sectors and occupations; and (bb) provision of information on nontraditional employment; and (II) appropriate recruitment and other business services on behalf of employers, including small employers, in the local area, which services may include services described in this subsection, such as providing information and referral to specialized business services not traditionally offered through the one-stop delivery system;
- (v) provision of referrals to and coordination of activities with other programs and services, including programs and services within the one-stop delivery system and, in appropriate cases, other workforce development programs;
- (vi) provision of workforce and labor market employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including— (I) job vacancy listings in such labor market areas; (II) information on job skills necessary to obtain the jobs described in subclause (I); and (III) information relating to local occupations in demand and the earnings, skill requirements, and opportunities for advancement for such occupations; ...

- (vii) (I) provision of information, in formats that are usable by and understandable to one-stop center customers, relating to the availability of supportive services or assistance, including child care, child support, medical or child health assistance under title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.), benefits under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), assistance through the earned income tax credit under section 32 of the Internal Revenue Code of 1986, and assistance under a State program for temporary assistance for needy families funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and other supportive services and transportation provided through funds made available under such part, available in the local area; and (II) referral to the services or assistance described in subclause (I), as appropriate; ...
- (viii) assistance in establishing eligibility for programs of financial aid assistance for training and education programs that are not funded under this Act;
- (ix) services, if determined to be appropriate in order for an individual to obtain or retain employment, that consist of— (I) comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include— (aa) diagnostic testing and use of other assessment tools; and (bb) in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals; (II) development of an individual employment plan, to identify the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve the employment goals, including providing information on eligible providers of training services pursuant to paragraph (3)(F)(ii), and career pathways to attain career objectives; (III) group counseling; (IV) individual counseling; (V) career planning; (VI) short-term prevocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct, to prepare individuals for unsubsidized employment or training; (VII) internships and work experiences that are linked to careers; (VIII) workforce preparation activities; (IX) financial literacy services, such as the activities described in section 129(b)(2)(D); (X) out-of-area job search assistance and relocation assistance; or (XI) English language acquisition and integrated education and training programs; and
- (x) follow-up services, including counseling regarding the workplace, for participants in workforce investment activities authorized under this subtitle who are placed in unsubsidized employment, for not less than 12 months after the first day of the employment, as appropriate.”

## V. Adult and Dislocated Worker Eligibility

According to WIOA Section 3 (2), “the term “adult” means an individual who is age 18 or older.”

According to WIOA Section 3 (15), “the term “dislocated worker” means an individual who—

(A)(i) has been terminated or laid off, or who has received a notice of termination or layoff, from employment; H. R. 803—8 (ii)(I) is eligible for or has exhausted entitlement to unemployment compensation; or (II) has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one-stop center referred to in section 121(e), attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; and (iii) is unlikely to return to a previous industry or occupation; (B)(i) has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise; (ii) is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or (iii) for purposes of eligibility to receive services other than training services described in section 134(c)(3), career services described in section 134(c)(2)(A)(xii), or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close; (C) was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters; (D) is a displaced homemaker; or (E)(i) is the spouse of a member of the Armed Forces on active duty (as defined in section 101(d)(1) of title 10, United States Code), and who has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of such member; or (ii) is the spouse of a member of the Armed Forces on active duty and who meets the criteria described in paragraph (16)(B). (16) DISPLACED HOMEMAKER.— The term “displaced homemaker” means an individual who has been providing unpaid services to family members in the home and who— (A)(i) has been dependent on the income of another family member but is no longer supported by that income; or (ii) is the dependent spouse of a member of the Armed Forces on active duty (as defined in section 101(d)(1) of title 10, United States Code) and whose family income is significantly reduced because of a deployment (as defined in section 991(b) of title 10, United States Code, or pursuant to paragraph (4) of such section), a call or order to active duty pursuant to a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, a permanent change of station, or the service-connected (as defined in section 101(16) of title 38, United States Code) death or disability of the member; and (B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.”

## VI. Selection Process

The Town of Hempstead Local Workforce Development Board (LWDB) and Youth Standing Committee will review all proposals. Funding will be made available to applicants whose proposals represent the best overall value to the local workforce development area. The LWDB may award a contract for any and all parts of the proposal and may negotiate contract terms and conditions to meet program requirements consistent with this RFP. Applicants will be rated on a 100-point rating system, as indicated below:

Applicant Background, Qualifications and Experience	20 Points
Approach, Design, Innovation and Coordination - Narrative	40 Points
Proposed Staff	20 Points
<u>Budget</u>	<u>20 Points</u>
Total Budget	100 Points

To be eligible to receive an award, a proposal must be fully completed, contain all required documentation, and achieve a minimum score of 70 points.

**FAILURE TO MEET MINIMUM REQUIREMENTS WILL RESULT IN AUTOMATIC REJECTION OF THE APPLICATION.**



**VII. Applicant Information (Mandated)**

**A. Cover Sheet**

Name of Organization: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Federal I.D Number: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Title of Contact Person: \_\_\_\_\_

Name of Official Authorized to Sign Contract: \_\_\_\_\_

Title of Authorized Official: \_\_\_\_\_

Signature of Authorized Official: \_\_\_\_\_

Date of Signature: \_\_\_\_\_

**B. Category of Applicant's Organization**

Please indicate the category below which best describes your organization by placing an "x" in the appropriate box. Please also provide the required Internal Revenue Service (IRS) identification information:

ITEM NUMBER	CATEGORY	IRS FEDERAL ID NUMBER
1.	Private-For-Profit	
2.	Non-Profit	
3.	Government Agency	

**VIII. Applicant Background, Qualifications and Experience (20 Points)**

1. Indicate the nature and mission of your business or organization. **(Mandated)**
2. Describe whether your organization has the financial resources, or has the ability to obtain them, to perform the proposed services. **(5 Points)**
3. Summarize your organization's record of fiscal integrity, business ethics, and fiscal accountability. **(5 Points)**
4. Provide evidence that your organization possesses the necessary organization, experience, accounting and operational controls, as well as technical skills to perform the work. **(5 Points)**
5. Describe the ability of your organization to perform the proposed services at a reasonable cost, as well as the ability to meet performance goals. (Note: The United States Department of Labor (USDOL)'s Primary Indicators of Performance are presented in Addendum D) **(5 Points)**

**IX. Approach, Design, Innovation and Coordination**

**A. Performance Benchmark Payments**

Contracts executed pursuant to this RFP will include performance benchmarks for payments, based on achievement of service goals. Contractors will be required to serve a combined minimum of forty (40) eligible adults and/or dislocated worker participants within each of the following performance periods:

Performance Period 1: May 1, 2021 through June 30, 2022

Performance Period 2: July 1, 2022 through June 30, 2023

Eighty percent (80%) of contractor costs will be paid by DOOR to the contractor on a cost reimbursement basis for claims and accompanying documentation deemed acceptable by DOOR. The balance of twenty percent (20%) of contractor costs will be paid upon DOOR’s approval, based upon documentation submitted by the contractor, combined with records contained in the New York State One-Stop Operating System (OSOS) that confirm that a minimum of forty (40) participants have been served in the required timeframe.

Instructions:

Place an “X” below to confirm whether your organization will comply with the combination cost reimbursement/benchmark contract terms described above:

Will comply: \_\_\_\_\_ Will not comply: \_\_\_\_\_

**B. Primary Indicators of Performance**

Contractors selected pursuant to this RFP will be required to attain the performance goals established for adults and dislocated workers under the Primary Indicators of Performance negotiated by the LWDB with the New York State Department of Labor (NYSDOL) for the Program Year corresponding to the period of performance. Primary Indicators of Performance outcomes will be calculated according to the criteria established by **New York State Department of Labor Workforce Development System Technical Advisory Number 17-5**, which is included as **Appendix V**.

**C. Services Checklist (Maximum of 30 Points)**

Place an "x" next to any services listed below which your agency plans to provide:

PLAN TO PROVIDE	SERVICE
	Determinations of whether the individuals are eligible to receive assistance under WIOA;
	Outreach, intake (which may include worker profiling), and orientation to the information and other services available through the one-stop delivery system
	Initial assessment of skill levels (including literacy, numeracy, and English language proficiency), aptitudes, abilities (including skills gaps), and supportive service needs
	<p>Labor exchange services, including job search and placement assistance and in appropriate cases, career counseling, including—</p> <p>Provision of information on in-demand industry sectors and occupations. Provision of information on nontraditional employment; and</p> <p>Appropriate recruitment and other business services on behalf of employers, including small employers, in the local area, which services may include services such as providing information and referral to specialized business services not traditionally offered through the one-stop delivery system;</p>
	Provision of referrals to and coordination of activities with other programs and services, including programs and services within the one-stop delivery system and, in appropriate cases, other workforce development programs
	<p>Provision of workforce and labor market employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including—</p> <p>Job vacancy listings in such labor market areas.</p> <p>Information on job skills necessary to obtain the jobs in demand; and information relating to local occupations in demand and the earnings, skill requirements, and opportunities for advancement for such occupations</p>

	Provision of information, in formats that are usable by and understandable to one-stop center customers, relating to the availability of supportive services or assistance, including child care, child support, medical or child health assistance under title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.), benefits under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), assistance through the earned income tax credit under section 32 of the Internal Revenue Code of 1986, and assistance under a State program for temporary assistance for needy families funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and other supportive services and transportation provided through funds made available under such part, available in the local area;
	Referral to the services or assistance, as appropriate;
	Assistance in establishing eligibility for programs of financial aid assistance for training and education programs that are not funded under this Act
	<p>Services, if determined to be appropriate in order for an individual to obtain or retain employment, that consist of—</p> <ul style="list-style-type: none"> <li>i. Comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include— <ul style="list-style-type: none"> <li>(aa) Diagnostic testing and use of other assessment tools; and</li> <li>(bb) In-depth interviewing and evaluation to identify employment barriers and appropriate employment goals.</li> </ul> </li> <li>ii. Development of an individual employment plan, to identify the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve the employment goals, including providing information on eligible providers of training services pursuant to WIOA section paragraph (3)(F)(ii), and career pathways to attain career objectives;</li> </ul>
	Group counseling;
	Individual counseling;
	Career planning;
	Short-term prevocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct, to prepare individuals for unsubsidized employment or training
	Workforce preparation activities;
	Financial literacy services, such as the activities described in WIOA section 129(b)(2)(D);

	Follow-up services, including counseling regarding the workplace, for participants in Workforce Innovation and Opportunity Activities authorized under WIOA who are placed in unsubsidized employment, for not less than 12 months after the first day of the employment, as appropriate.
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**X. Proposed Staff (20 Points)**

Include as “**Appendix II**” a resume or summary of the qualifications of the staff person(s) to be assigned to perform the services proposed.

## **XI. Budget (20 Points)**

Include as “**Appendix III**” the Budget, which include the following information:

- A. The aggregate price (excluding in-kind contributions) for the proposed services;
- B. The cost per participant to be served (i.e. number of participants proposed to be served divided by the aggregate price);
- C. A line item breakdown of each element of the aggregate price for cost price analysis purposes;
- D. A budget narrative, including an itemization of WIOA funds requested as reimbursement for WIOA services, along with a summary of the proposed services and the purpose of each item;
- E. An itemization of non-WIOA funds offered on a cash or in-kind basis to support WIOA services to be conducted through co-location, or through electronic linkages;
- F. If the organization is classified as "non-profit," then documentation of the organization's legal non-profit status must be attached;
- G. If the organization is classified as "for-profit," then its proposal must demonstrate the amount of profit it proposes to retain, with sufficient documentation to demonstrate whether or not this profit is reasonable.

**Note: Preference will be given to applicants that request program expenses only. Administrative expenses should not exceed 10% of total costs. Proposed in-kind administrative services must be identified in the budget.**



## **XII. Assurances**

Include the following forms signed by the appropriate official of your organization:

1. Equal Employment Opportunity and Non-Discrimination Policy Statement
2. Grievance Procedure
3. Certification Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace
4. Responsibility Questionnaire
5. Federal Certifications
6. Certification (Only required if contractor's chief executive officer does not sign contract)
7. Worker's Compensation insurance and Disability Benefits
8. Certificate of Insurance

**TOWN OF HEMPSTEAD WORKFORCE DEVELOPMENT BOARD (WDB)/  
DEPARTMENT OF OCCUPATIONAL RESOURCES (DOOR)  
EQUAL EMPLOYMENT OPPORTUNITY (EEO) AND  
NON-DISCRIMINATION POLICY**

- I. No person will be discriminated against on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief. Furthermore, no person will be excluded from participation in, denied the benefits of, or subject to discrimination under a Workforce Innovation and Opportunity Act (WIOA), Balanced Budget Act Welfare-to-Work (WtW) or Temporary Assistance to Needy Families (TANF) funded program, on the grounds of their citizenship, participation in WIOA, WtW, TANF, race, color, religion, sex, national origin, age, disability, political affiliation, or belief.
- II. The WDB and DOOR will not discriminate in the award of contracts on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, or citizenship.
- III. The WDB and DOOR will not discriminate on any prohibited grounds to: registrants, applicants, and eligible applicants/registrants; participants; applicants for employment and employees; unions or professional organizations that hold collective bargaining or professional agreements with the recipient; subrecipients that receive WIOA, WtW or TANF funds from the recipient; and members of the public including those with impaired vision or hearing.
- IV. WIOA, WtW and TANF financially assisted programs are equal opportunity programs and auxiliary aids and services are available upon request to individuals with disabilities.
- V. Services and information will be provided in languages other than English when there is a significant number or proportion of the population eligible to be served or likely to be directly affected by a WIOA, WtW or TANF financially assisted program or activity, that may need services or information in a language other than English.
- VI. The Town of Hempstead/City of Long Beach Local Workforce Development Area (LWIOA) Equal Opportunity (EO) Officer who will be responsible for transmitting complaints of discrimination to the Director of Civil Rights Center is listed below:  
  
Name: Sal Scibetta  
Address: Town of Hempstead  
Department of Occupational Resources  
50 Clinton Street  
Suite 400  
Hempstead, New York 11550  
Telephone Number: (516) 485-5000
- VII. DOOR will monitor the EO compliance status of its subrecipients and annually. Periodic on-site reviews of subrecipients will be conducted to assess their EO compliance posture, the results of which are communicated to the subrecipient in writing.

Received by \_\_\_\_\_  
(sign name)

\_\_\_\_\_  
(print name)

Date \_\_\_\_\_

Rev. 05/23/05

**WIOA Title I Complaint/Grievance Procedure and Discrimination/Criminal Complaint Procedure**  
**Local Workforce Development Area Name: Town of Hempstead/City of Long Beach**

**Designated Grievance Officer:** Kurt Rockensies

Phone: 516-485-5000, ext. 1152

Email: krockensies@hempsteadworks.com

**Designated Hearing Officer:** Sal Scibetta

Phone: 516-485-5000, ext. 1205

Email: Scibetta@hempsteadworks.com

1. The process starts when a complaint/grievance is filed with the Grievance Officer. The officer must log the complaint, and review it to seek a resolution.
  - a. Note, while not required, customers are encouraged to file complaints using the Customer Complaint Information Form (Attachment C). This same form can be utilized to file complaints under the Title III Wagner-Peyser program and/or for discrimination complaints filed under Section 188 of the Workforce Innovation and Opportunity. Appropriate procedure should be followed when filing a complaint in those cases.
2. A hearing will be scheduled at least thirty (30) calendar days, but no more than forty-five (45) calendar days, from the filing of the complaint/grievance to provide the person or entity (Complainant) with an opportunity to present witnesses and other evidence.
  - a. Notice of the grievance hearing shall be in writing and include: the date, the time, and place of hearing; a statement of the law and regulations under which the hearing is to be held, and a short and clear statement of the complaint/grievance.
  - b. Note that if the Grievance Officer is successful in reaching an informal resolution with the Complainant prior to the date of the scheduled hearing, the scheduled hearing will be adjourned.
3. At the Local Area level, a written Decision must be issued to the Complainant by the Hearing Officer within sixty (60) calendar days of the filing of the complaint/grievance.
4. Complainants not in receipt of a written decision within sixty (60) calendar days of filing the complaint/grievance have the right to request a State Level review. Such a request must be filed within fifteen (15) calendar days from the date on which the Complainant should have received a written decision. The request for State Level Review must be filed with the State Level Grievance Officer. State level appeals must be submitted by certified mail, return receipt requested to:

State Level Grievance Officer  
New York State Department of Labor  
W. Averell Harriman State Office Building Campus  
Building 12, Room 440,  
Albany, New York 12240-0001

5. The Complainant also has the right to request a State Level review of an adverse decision issued by the Local Level Hearing Officer. Such request must be filed with the State Level Grievance Officer within ten (10) calendar days of receipt of the adverse decision.
6. State Level Review shall only proceed to the extent that a Local level hearing has been held, findings of fact made, and a decision rendered. If not, the State Level Grievance Officer shall return the complaint/grievance to the Local Level Grievance Officer with instructions on how to complete the review and hearing process.
7. To the extent that Local Level Hearing is complete, requests to review the Local Level Hearing decision shall be limited to any allegations of procedural errors or errors in interpreting or applying the law. Findings of Fact must occur at the Local Level. Any finding at the State Level indicating that errors were made at the Local Level in making Findings of Fact will be returned to the Local Level for further review.
8. If a State Level Review is requested, the State Level Grievance Officer shall investigate the complaint/grievance, seek resolution, and issue a written decision within sixty (60) calendar days of receipt of a request for a review by a Complainant.

9. A hearing will be scheduled at least thirty (30) calendar days, but no more than forty-five (45) calendar days, from the filing of the complaint/grievance.
  - a. Note that if the State Level Grievance Officer is successful in reaching an informal resolution with the Complainant prior to the date of the scheduled hearing, the scheduled hearing will be adjourned.
10. Complainants either not given a hearing or who did not receive a hearing decision within sixty (60) calendar days of requesting State Level Review, and which were not remanded back to the Local Level, have the right to request a Federal Level Review. Such a request must be filed within fifteen (15) calendar days from the date on which the Complainant should have received a written decision.
11. Complainants in receipt of a written State Level hearing decision, have the right to request a Federal Level Review. Such a request must be filed within ten (10) calendar days from the date on which Complainant received the written hearing decision. Such requests must allege either procedural violations or errors in interpreting or applying the law at the lower level hearing. Federal Level Appeals must be submitted by certified mail, return receipt requested, to the Secretary, U.S. Department of Labor, Washington, DC 20210, Attention: ASET. A copy of the appeal must be simultaneously provided to the appropriate ETA Regional Administrator (address below) and the opposing party.

U.S. Department of Labor Employment and Training Administration  
 25 New Sudbury St,  
 John F. Kennedy Federal Building, Room E-350  
 Boston, MA 02203

Discrimination Complaints

Applicants, participants, and staff alleging discrimination based upon race, national origin, citizenship, sex, age, color, political affiliation, religious belief, or retaliation must file their complaints directly with the United States Department of Labor, Office of Civil Rights, within 180 days of the occurrence of the allegedly discriminatory action. A complaint may be filed by official form, letter, telephone call, or visit to: Director, Office of Civil Rights, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N4123, Washington, DC, 20210. Complaints alleging discrimination on the grounds of handicap will be received and processed on the local level as part of the regular Workforce Development Area grievance process outlined above as "General Procedures."

Criminal Complaints

All information and complaints involving fraud, abuse, or other criminal activity shall be reported immediately to the United States Department of Labor, 200 Constitution Avenue, NW., Washington D.C. 20210. A duplicate notice should also be sent at the same time to the New York State Department of Labor, in care of State Representative, New York State Department of Labor, State of New York Department of Labor, Division of Employment and Workforce Solutions, 75 Varick Street, New York, New York 10003.

**WIOA/TANF Program Complaint Resolution Officer**

The WIOA/TANF Program Complaint Resolution Officer may be reached at the Department of Occupational Resources, 50 Clinton Street, 4th Floor, Hempstead, New York 11550, (516) 485-5000. The Grievance Officer will provide you with any forms or technical assistance which you may require in order to file or process a grievance or complaint. The WIOA Program Complaint Resolution Officer is also responsible for the receipt and resolution of complaints. If your complaint is not WIOA/TANF-related, it will be referred to the appropriate agency or agencies. Your complaint may also involve or entitle you to recourse from other state or federal agencies pursuant to other state and federal laws. To the maximum extent possible, the identity of a complainant will be kept confidential consistent with applicable law and a fair determination of the complaint. The making of a complaint will in no way affect your status or participation in or with the WIOA/TANF program. If you have any questions concerning this procedure or wish to file a complaint or grievance, please contact the WIOA/TANF Complaint Resolution Officer.

Date: \_\_\_\_\_  
 (sign name)

Received by: \_\_\_\_\_

## **CERTIFICATION REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS**

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Non-Procurement) and Government-wide Requirements for Drug-free Workplace (Grants)." The certification shall be treated as a material representation of fact upon which reliance will be placed with the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

### **1. LOBBYING**

As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal Grant or cooperative agreement;
- (b) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

### **2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 84, Sections 85.105 and 85.110 -

A. The applicant certifies that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not, within a three-year period preceding this application and/or contract, had one or more public transactions, whether Federal, State or Local, terminated for cause or default; and been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted or otherwise criminally or civilly charged by a Government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph A(b) of this certification, and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE  
(GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. The applicant that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about--

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance program; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will --

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after having received notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 312A, GSA Regional Office Building No. 3), Washington, D.C. 20202-4571. Notice shall include the identification number of each affected grant.

Check here if there are any workplace on file that are not identified here.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certification.

NAME OF APPLICANT PROJECT NAME	PREAWARD NUMBER and/or
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

## RESPONSIBILITY QUESTIONNAIRE 7/13/06

### Instructions:

Please complete this form answering every question. A "Yes" answer to questions 1-22 requires a written explanation attached to the questionnaire and submitted on company letterhead signed by an officer of the company.

### Questions:

Within the past five years, has your firm, any affiliate, any principal, owner or officer or major stockholder (10% or more shares) or any person involved in the bidding or contracting process been the subject of any of the following:

(1) a judgment or conviction for any business-related conduct constituting a crime under local, state or federal law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing, or bid collusion or any crime related to truthfulness and/or business conduct?

Yes \_\_\_ No \_\_\_

(2) a criminal investigation or indictment for any business-related conduct constituting a crime under local, state or federal law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing, or bid collusion or any crime related to truthfulness and/or business conduct?

Yes \_\_\_ No \_\_\_

(3) an unsatisfied judgment, injunction or lien obtained by a government agency including, but not limited to, judgments based on taxes owed and fines and penalties assessed by any local, state or federal government agency?

Yes \_\_\_ No \_\_\_

(4) an investigation for a civil violation for any business-related conduct by any local, state or federal agency?

Yes \_\_\_ No \_\_\_

(5) a grant of immunity for any business-related conduct constituting a crime under local, state or federal law including, but not limited to fraud, extortion, bribery, racketeering, price-fixing, or bid collusion or any crime related to truthfulness and/or business conduct?

Yes \_\_\_ No \_\_\_

(6) a local, state or federal suspension, debarment or termination from the contracting process?

Yes \_\_\_ No \_\_\_

(7) a local, state or federal contract suspension or termination for cause prior to the completion of the term of a contract?

Yes \_\_\_ No \_\_\_

(8) a local, state or federal denial of a lease or contract award for non-responsibility?

Yes \_\_\_ No \_\_\_

(9) an agreement to voluntary exclusion from bidding/contracting?

Yes \_\_\_ No \_\_\_

(10) an administrative proceeding or civil action seeking specific performance or restitution in connection with any local, state or federal contract or lease?

Yes \_\_\_ No \_\_\_

(11) a local, state or federal determination of a willful violation of any prevailing wage law or a violation of any other labor law or regulation?

Yes \_\_\_ No \_\_\_

(12) a sanction imposed as a result of judicial or administrative proceedings relative to any business or professional license?

Yes \_\_\_ No \_\_\_

(13) a denial, decertification, revocation or forfeiture of Women's Business Enterprise, Minority Business Enterprise or Disadvantaged Business Enterprise status?

Yes \_\_\_ No \_\_\_



(14) a rejection of a low bid on a local, state or federal contract for failure to meet statutory affirmative action or MWBE requirements on a previously held contract?

Yes \_\_\_ No \_\_\_

(15) a consent order with the New York State Department of Environmental Conservation, or a federal, state or local government enforcement determination involving a violation of federal, state or local government laws?

Yes \_\_\_ No \_\_\_

(16) an Occupational Safety and Health Act citation and Notification of Penalty containing a violation classified as serious or willful?

Yes \_\_\_ No \_\_\_

(17) a rejection of a bid on a New York contract or lease for failure to comply with the MacBride Fair Employment Principles?

Yes \_\_\_ No \_\_\_

(18) a citation, notice, violation order, pending administrative hearing or proceeding or determination for violations of

- federal, state or local health laws, rules or regulations
- unemployment insurance or workers' compensation coverage or claim requirements
- ERISA (Employee Requirement Income Security Act)
- federal, state or local human rights laws
- federal or state security laws
- federal INS and Alienage laws
- Sherman Act or other federal anti-trust laws?

Yes No

(19) a finding of non-responsibility by an agency or authority due to the failure to comply with the requirements of Tax Law Section 5-a?

Yes \_\_\_ No \_\_\_

#### **ADDITIONAL QUESTIONS**

(20) Has the vendor been the subject of agency complaints or reports of contract deviation received within the past two years for contract performance issues arising out of a contract with any federal, state or local agency? If yes, provide details regarding the agency complaints or reports of contract deviation received for contract performance issues.

Yes \_\_\_ No \_\_\_

(21) Does the vendor use, or has it used in the past five (5) years, an Employee Identification No., Social Security No., Name, DBA, trade name or abbreviation different from that listed on your mailing list application form? If yes, provide the name(s), FEIN(s) and d/b/a(s) and the address for each such company and d/b/a on a separate piece of paper and attach to this response.

Yes \_\_\_ No \_\_\_

(22) During the past three years, has the vendor failed to:

(a) File returns or pay any applicable local, state or federal government taxes?

Yes \_\_\_

No \_\_\_

If yes, identify the taxing jurisdiction, type of tax, liability year(s) and tax liability amount the company failed to file/pay and the current status of the liability: \_\_\_\_\_

(a) File returns or pay New York State Unemployment Insurance?

Yes \_\_\_ No \_\_\_

If yes, indicate the years the company failed to file/pay the insurance and the current status of the liability: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

(23) Have any bankruptcy proceedings been initiated by or against the vendor or its affiliates within the past seven years (whether or not closed) or is any bankruptcy proceeding pending by or against the vendor or its affiliates, regardless of the date of filing?

Yes \_\_\_ No \_\_\_

If yes, indicate if this is applicable to the submitting vendor or one of its affiliates: \_\_\_\_\_

If it is an affiliate, include the affiliate's name and FEIN: \_\_\_\_\_

Provide the court name, address and docket number: \_\_\_\_\_

Indicate if the proceedings have been initiated, remain pending or have been closed: \_\_\_\_\_

If closed, provide the date closed: \_\_\_\_\_

### **CERTIFICATION:**

The undersigned: recognizes that this questionnaire is submitted for the express purpose of assisting the State of New York or its agencies or political subdivisions to make a determination regarding the award of a contract or approval of a subcontract; acknowledges that the State or its agencies and political subdivisions may in its discretion, by means which it may choose, verify the truth and accuracy of all statements made herein; acknowledges that intentional submission of false or misleading information may constitute a felony under Penal Law Section 210.40 or a misdemeanor under Penal Law Section 210.35 or Section 210.45, and may also be punishable by a fine of up to \$10,000 or imprisonment of up to five years under 18 USC Section 1001 and may result in contract termination; and states that the information submitted in this questionnaire and

The undersigned certifies that he/she:

- Has not altered the content of the questions in the questionnaire in any manner;
- Has read and understands all of the items contained in the questionnaire and any pages attached by the submitting vendor;
- Has supplied full and complete responses to each item therein to the best of his/her knowledge, information and belief;
- Is knowledgeable about the submitting vendor's business and operations;
- Understands that New York State will rely on the information supplied in this questionnaire when entering into a contract with the vendor; and
- Is under a duty to notify the procuring State Agency of any material changes to the vendor's responses herein prior to the State Comptroller's approval of the contract.

Name of Business Signature of Officer

Address Typed Copy of Signature

City, State, Zip Title

Principal place of business if different from address listed above (include complete address):

### **FEDERAL CERTIFICATIONS**

The funding for the awards granted under this contract is provided by the United States Department of Labor which requires the following certifications:

#### **A. NONDISCRIMINATION & EQUAL OPPORTUNITY ASSURANCE**

As a condition to the award of financial assistance from the Department of Labor under Title I of WIOA, the grant applicant assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

- (1) Section 188 of the Workforce Innovation and Opportunity Act of 2014 (WIOA) which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age disability, political affiliation, or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I -financially assisted program or activity;

- (2) Title VI of the Civil Rights Act of 1964, as amended which prohibits discrimination on the basis of race, color, and national origin;
- (3) Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
- (4) The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
- (5) Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The grant applicant also assures that it will comply with 29 CFR Part 37 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIOA Title I - financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIOA Title I-financially assisted program or activity. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance.

**B. BUY AMERICAN NOTICE REQUIREMENT**

The grant applicant assures that, to the greatest extent practicable, all equipment and products purchased with funds made available under the Workforce Innovation and Opportunity Act will be American made. See WIOA Section 505 – Buy American Requirements.

**C. SALARY AND BONUS LIMITATIONS**

In compliance with Public Laws 110-161, none of the federal funds appropriated in the Act under the heading ‘Employment and Training’ shall be used by a subrecipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II. This limitation shall not apply to vendors providing goods and services as defined in OMB Circular A-133. See Training and Employment Guidance Letter number 5-06 for further clarification. Where applicable, the grant applicant agrees to comply with the Salary and Bonus Limitations.

**D. VETERANS’ PRIORITY PROVISIONS**

Federal grants for qualified job training programs funded, in whole or in part, by the U.S. Department of Labor are subject to the provisions of the “Jobs for Veterans Act” (JVA), Public Law 107-288 (38 USC 4215). The JVA provides priority of service to veterans and spouses of certain veterans for the receipt of employment, training, and placement services. Please note that to obtain priority service, a person must meet the program’s eligibility requirements. Training and Employment Guidance Letter (TEGL) No. 5-03 (September 16, 2003) and Section 20 of the Code of Federal Regulations (CFR) Part 1010 (effective January 19, 2009) provide general guidance on the scope of the veterans’ priority statute and its effect on current employment and training programs. Where applicable, the grant applicant agrees to comply with the Veteran’s Priority Provisions.

**STATE CERTIFICATIONS**

**E. CERTIFICATION REGARDING "NONDISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND: MacBRIDE FAIR EMPLOYMENT PRINCIPLES"**

In accordance with Chapter 807 of the Laws of 1992 the bidder, by submission of this bid, certifies that it or any individual or legal entity in which the bidder holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership interest in the bidder, either: (answer Yes or No to one or both of the following, as applicable.)

1. Has business operations in Northern Ireland:  
 \_\_\_\_\_ Yes \_\_\_\_\_ No

If Yes:

2. Shall take lawful steps in good faith to conduct any business operations they have in Northern

Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of its compliance with such Principles.

\_\_\_\_\_ Yes \_\_\_\_\_ No

**F. NON-COLLUSIVE BIDDING CERTIFICATION**

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief:

- 1. The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
- 2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
- 3. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit to bid for the purpose of restricting competition.

I, the undersigned, attest under penalty of perjury that I am an authorized representative of the Bidder/Contractor and that the foregoing statements are true and accurate.

Signature of Authorized Representative \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

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**STANDARD CLAUSES FOR NYS CONTRACTS**

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

**1. EXECUTORY CLAUSE.**

In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

**2. NON-ASSIGNMENT CLAUSE.**

In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**3. COMPTROLLER'S APPROVAL.**

In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y.

contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6.a).

#### **4. WORKERS' COMPENSATION BENEFITS.**

In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

#### **5. NON-DISCRIMINATION REQUIREMENTS.**

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

#### **6. WAGE AND HOURS PROVISIONS.**

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

#### **7. NON-COLLUSIVE BIDDING CERTIFICATION.**

In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

#### **8. INTERNATIONAL BOYCOTT PROHIBITION.**

In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall

participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

#### **9. SET-OFF RIGHTS.**

The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of setoff any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

#### **10. RECORDS.**

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term Page 2 June, 2006 specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

#### **11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.**

(a) **FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER.** All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

(b) **PRIVACY NOTIFICATION.** (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.

(2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in

New York State's Central Accounting System by the Director of Accounting Operations, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

## **12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.**

In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the

Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Governor's Office of Minority and Women's Business Development pertaining hereto.

## **13. CONFLICTING TERMS.**

In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

## **14. GOVERNING LAW.**

This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

## **15. LATE PAYMENT.**

Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

**16. NO ARBITRATION.**

Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

**17. SERVICE OF PROCESS.**

In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

**18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.**

The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165. (Use of Tropical Hardwoods) which prohibits purchase and Page 3 June, 2006 use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.**

In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

**20. OMNIBUS PROCUREMENT ACT OF 1992.**

It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts. Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development Division for Small Business  
30 South Pearl St -- 7th Floor  
Albany, New York 12245  
Telephone: 518-292-5220  
Fax: 518-292-5884  
<http://www.empire.state.ny.us>



A directory of certified minority and women-owned business enterprises is available from:  
NYS Department of Economic Development  
Division of Minority and Women's Business Development  
30 South Pearl St -- 2nd Floor  
Albany, New York 12245  
Telephone: 518-292-5250  
Fax: 518-292-5803  
<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
- (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
- (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

## **21. RECIPROcity AND SANCTIONS PROVISIONS.**

Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

## **22. PURCHASES OF APPAREL.**

In accordance with State Finance Law 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (i) such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder.

CERTIFICATION

I hereby certify that the following is a true copy of resolution duly adopted by the Board of Directors of \_\_\_\_\_, a domestic corporation, at a meeting held on \_\_\_\_\_ 20\_\_\_\_, at which a quorum was present, that said resolution has not been rescinded or modified, and it still in full force and effect, that said resolution is not contrary to any provision in the Certificate of Incorporation or By-Laws of said corporation, and that said certification is made knowing that the Town of Hempstead Department of Occupational Resources at 50 Clinton St., Suite 400, Hempstead, New York, will rely upon this certification incident to the execution of any documents by \_\_\_\_\_ with respect to Contract No. \_\_\_\_\_ pertaining to \_\_\_\_\_

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RESOLVED, that \_\_\_\_\_ is hereby elected as \_\_\_\_\_ of \_\_\_\_\_ with full authority to enter into any agreement or transaction on behalf of the corporation.

WITNESS my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Secretary)

(Seal)

Note. This form must be completed for all agreements that will be executed by an officer other than President or Superintendent.

**Workers' Compensation Insurance and Disability Benefits**

Contracts awarded pursuant to this RFP will require the CONTRACTOR to secure and maintain Workers' Compensation Insurance and Disability Benefits as required by the State of New York for the life of this contract. In accordance with Workers' Compensation Law Sections 57 and 220(8), the contractor must be legally exempt from obtaining workers' compensation insurance coverage; or obtain such coverage from an insurance carrier; or be a Workers' Compensation Board approved self-insured employer or participate in an authorized group self-insurance plan. Proposals submitted in response to this RFP must include one of the following forms:

- (a) WC/DB-100, Affidavit for New York Entities with No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Insurance Coverage Is Not Required (Must be stamped as "received" by New York State Workers' Compensation Board); or
- (b) C-105.2 – Certificate of Workers' Compensation; or
- (c) SI-12 – Certificate of Workers' Compensation Self-Insurance.

In addition, proposals must include one of the following forms to DOOR:

- (a) DB-120.1 – Certificate of Disability Benefits Insurance; or
- (b) DB-155 - Certificate of Disability Benefits Self-Insurance.

**XIII. PROPOSAL REVIEW FORM – Career Services for Adults and Dislocated Workers**

**(For DOOR use only)**

Vendor: \_\_\_\_\_

<b>SECTION TO BE EVALUATED</b>	<b>TOTAL POINTS</b>	<b>POINTS AWARDED</b>
<b>Applicant Background, Qualifications and Experience</b>	<b>20</b>	
<b>Approach, Design, Innovation and Coordination – Narrative</b>	<b>40</b>	
<b>Proposed Staff</b>	<b>20</b>	
<b>Budget</b>	<b>20</b>	
<b>Amount Proposed: _____</b>		

**POINTS ACCUMULATED**

\_\_\_\_\_

***To be eligible to receive an award, a proposal must achieve a minimum score of 70 points.***

Reviewer: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix I – Public Notice

### **NOTICE OF REQUEST FOR PROPOSALS FOR CAREER SERVICES FOR ADULTS AND DISLOCATED WORKERS UNDER THE WORKFORCE INNOVATION AND OPPORTUNITY ACT PROGRAM FOR THE TOWN OF HEMPSTEAD/CITY OF LONG BEACH LOCAL WORKFORCE DEVELOPMENT AREA.**

#### **I. Purpose and Services**

This solicitation of proposals is being conducted by the Town of Hempstead Department of Occupational Resources (DOOR) on behalf of the Town of Hempstead/City of Long Beach Local Workforce Development Board (LWDB) under the Workforce Innovation and Opportunity Act (WIOA) of 2014 and all related regulations. The purpose of these services is to achieve outstanding outcomes for the benefit of eligible adults and dislocated workers, as defined by the WIOA Youth Primary Indicators of Performance negotiated by the LWDB with the New York State Department of Labor (NYSDOL). The services to be performed include career services as defined under WIOA at Section 134 c) (2). These services will be provided to eligible adults as defined under WIOA Section 3 (2) and eligible dislocated workers as defined under WIOA Section 3 (15).

Applicants must be incorporated for-profit or not-for-profit organizations, or public agencies, with a minimum of three (3) years of experience providing the requested services. Applicants must submit a narrative and budget arranged to respond to the format provided in connection with this RFP, which can be accessed online at [www.hempsteadworks.com](http://www.hempsteadworks.com).

#### **II. Submission Requirements**

**Completed proposals must be received by DOOR no later than 4:30 P.M. on Friday, April 16, 2021.** Except for good cause shown, proposals that are received after that date will be reviewed and kept on file for future funding consideration only should conditions warrant. Proposals should be submitted in sealed envelopes and addressed to Elizabeth Ajasin, Planner, Town of Hempstead, Department of Occupational Resources, 50 Clinton Street, Suite 400, Hempstead, New York 11550. Applicants are advised that changes in the Local Workforce Area's Workforce System, both in terms of content and funding levels, may be required prior to or during its operation due to new or revised legislation. All parties to contracts are expected to adhere to any necessary changes. This RFP does not commit the LWDB or DOOR to award a contract to pay costs incurred in the preparation of a proposal in response to this request, or to procure or contract for services or supplies. The LWDB and DOOR reserve the right to accept or reject any or all qualified sources, or to cancel in part or in its entirety this RFP if it is in their best interests to do so. Any questions concerning this RFP should be directed to Elizabeth Ajasin by e-mail to [eajasin@hempsteadworks.com](mailto:eajasin@hempsteadworks.com).

## Appendix II – Proposed Staff

## Appendix III – Budget

## Appendix IV – WIOA Services Allocated to the Administration Cost Category

Below are the activities that must be charged to the Administrative Costs Category, as required by Sec. 683.215 of the WIOA Final regulations:

**(a)** The costs of administration are expenditures incurred by State and Local WDBs, Regions, direct grant recipients, including State grant recipients under subtitle B of title I of WIOA, and recipients of awards under subtitle D of title I, as well as local grant recipients, local grant subrecipients, local fiscal agents and one-stop operators that are associated with those specific functions identified in paragraph (b) of this section and which are not related to the direct provision of workforce investment services, including services to participants and employers. These costs can be both personnel and non-personnel and both direct and indirect.

**(b)** The costs of administration are the costs associated with performing the following functions:

**(1)** Performing the following overall general administrative functions and coordination of those functions under title I of WIOA:

**(i)** Accounting, budgeting, financial and cash management functions;

**(ii)** Procurement and purchasing functions;

**(iii)** Property management functions;

**(iv)** Personnel management functions;

**(v)** Payroll functions;

**(vi)** Coordinating the resolution of findings arising from audits, reviews, investigations and incident reports;

**(vii)** Audit functions;

**(viii)** General legal services functions;

**(ix)** Developing systems and procedures, including information systems, required for these administrative functions; and

**(x)** Fiscal agent responsibilities;

**(2)** Performing oversight and monitoring responsibilities related to WIOA administrative functions;

**(3)** Costs of goods and services required for administrative functions of the program, including goods and services such as rental or purchase of equipment, utilities, office supplies, postage, and rental and maintenance of office space;

**(4)** Travel costs incurred for official business in carrying out administrative activities; and



**(5)** Costs of information systems related to administrative functions (for example, personnel, procurement, purchasing, property management, accounting, and payroll systems) including the purchase, systems development and operating costs of such systems.

**(c)**

**(1)** Awards to subrecipients or contractors that are solely for the performance of administrative functions are classified as administrative costs.

**(2)** Personnel and related non-personnel costs of staff that perform both administrative functions specified in paragraph (b) of this section and programmatic services or activities must be allocated as administrative or program costs to the benefitting cost objectives/categories.

**(3)** Specific costs charged to an overhead or indirect cost pool that can be identified directly as a program cost are to be charged as a program cost. Documentation of such charges must be maintained.

**(4)** Except as provided at paragraph (c)(1) of this section, all costs incurred for functions and activities of subrecipients, other than those subrecipients listed in paragraph (a) of this section, and contractors are program costs.

**(5)** Continuous improvement activities are charged to administration or program category based on the purpose or nature of the activity to be improved. Documentation of such charges must be maintained.

**(6)** Costs of the following information systems including the purchase, systems development, and operational costs (e.g., data entry) are charged to the program category:

**(i)** Tracking or monitoring of participant and performance information;

**(ii)** Employment statistics information, including job listing information, job skills information, and demand occupation information;

**(iii)** Performance and program cost information on eligible training providers, youth activities, and appropriate education activities;

**(iv)** Local area performance information; and

**(v)** Information relating to supportive services and unemployment insurance claims for program participants.

**Appendix V – New York State Department of Labor Workforce Development  
System Technical Advisory Number 18-06.2**

**Workforce Development System  
Technical Advisory # 18-6.2  
September 17, 2018**

**To:** Workforce Development Community

**SUBJECT:** Primary Indicators of Performance for Titles I and III under the Workforce Innovation and Opportunity Act (WIOA)

**PURPOSE**

Identify the WIOA Primary Indicators of Performance and how they apply to the programs delivered under Titles I and III of WIOA.

Establish policy on performance goals and the assessment of performance for the Primary Indicators of Performance under WIOA for Title I Adult, Dislocated Worker (DW) and Youth programs, and Title III Wagner-Peyser Act (W-P) program.

Establish procedures for Local Workforce Development Boards (LWDBs) to negotiate and reach agreement with the State on Local Workforce Development Area (LWDA) goals for the Primary Indicators of Performance for Titles I and III.

Rescind and replace Workforce Development System Technical Advisory (WDS-TA) #17-5 – Primary Indicators of Performance: Local Workforce Development Area Goals and Negotiations for Workforce Innovation and Opportunity Act Program Years 2016 and 2017, Titles I and III. (May 31, 2017)

**POLICY**

**WIOA Primary Indicators of Performance**

States and LWDBs are held to six (6) Primary Indicators of Performance established by WIOA for the Title I – Adult, DW and Youth, and Title III Wagner-Peyser programs. Note that the indicators are not applied uniformly across each program; some indicators are not applicable to specific programs, and others have different definitions for certain programs.

Table 1 identifies each indicator and the programs it applies to.

**Table 1. WIOA Primary Indicators of Performance**

	Adult/Dislocated Worker	Youth	Wagner-Peyser
Second Quarter Employment Rate	✓	✓	✓
Fourth Quarter Employment Rate	✓	✓	✓
Median Earnings	✓	✓	✓
Credential Attainment	✓	✓	
Measurable Skills Gains	✓	✓	
Business Indicators	✓	✓	✓

Note that in New York State, participants of the Trade Adjustment Assistance (TAA) program are co-enrolled in the DW program. Therefore, TAA participants are included in the Primary Indicators of Performance as DW's.

The six Primary Indicators of Performance are defined as:

1. Second Quarter Employment Rate – The percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program.
  - Note that for Title I Youth, the indicator is the percentage of participants in education or training activities, or in unsubsidized employment during the second quarter after exit;
2. Fourth Quarter Employment Rate – The percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program.
  - Note that for Title I Youth, the indicator is the percentage of participants in education or training activities, or in unsubsidized employment during the fourth quarter after exit;
3. Median Earnings – The statistical median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program;
4. Credential Attainment – The percentage of participants enrolled in an education or training program (excluding those in on-the-job training and customized training) who attained an industry recognized postsecondary credential, or

certificate of completion of an apprenticeship, or certificate approved by the New York State Education Department (NYSED) or another State agency, or a secondary school diploma. A participant who has attained a secondary school diploma or its recognized equivalent is included in the percentage of participants who have attained a secondary school diploma or its recognized equivalent only if the participant also is employed or is enrolled in an education or training program leading to a postsecondary credential approved by NYSED or another State agency within one year after exit from the program;

5. Measurable Skill Gains – The percentage of program participants who, during a program year, are in an education or training program that leads to a recognized postsecondary credential or employment and who are achieving measurable skill gains toward such a credential or employment. Measurable skill gains are defined as documented academic, technical, occupational, or other forms of progress toward a postsecondary credential or employment; and
6. Business Indicators – Effectiveness in serving businesses.
  - a. Repeat Business Customers (percentage of repeat businesses using services within the previous three years); and
  - b. Business Penetration Rate (percentage of businesses using services out of all businesses in the State).

## **Performance Goals**

Performance goals will be established at both the State and Local level through a negotiation process. WIOA identifies three types of performance goals:

1. Proposed goals (referred to as “expected goals” in Training and Employment Guidance Letter (TEGL) No. 9-17) – performance goals established prior to the negotiation process that act as the starting point of the negotiation. The New York State Department of Labor (NYSDOL) will develop Proposed goals for LWDBs and the State.
2. Negotiated goals – performance goals that are agreed upon by the parties involved in the negotiation process.
3. Adjusted goals – Negotiated goals are recalculated after the end of the program year using the Statistical Adjustment Model to account for circumstances that take place during the program year that could not be anticipated during the negotiation process. Additional information on the Statistical Adjustment Model is provided in the next part of this WDS TA.

The determination of proposed and negotiated goals must be based primarily on the following four (4) factors:

1. The Statistical Adjustment Model;
  - a. WIOA requires the use of a Statistical Adjustment Model that factors in actual economic conditions (unemployment rates, job losses or gains in specific industries, etc.), and characteristics of participants served (lack of

or poor work history, lack of educational or occupational skills, lack of literacy or English proficiency, homelessness, ex-offender status, etc.).

The United States Departments of Labor and Education (USDOL/USDOE) developed a model for use in State Performance negotiations, and additional information on the model can be found in TEGL 9-17. Similarly, NYSDOL has developed a model for Local negotiations.

2. The promotion of Continuous Improvement;
3. The Government Performance and Results Act (GPRA) of 1993; and
4. Performance of similar States or LWDAs.

As noted previously, the Statistical Adjustment Model will be reapplied to the Negotiated goals after the end of the Program year, resulting in the Adjusted goals.

### **Assessment of Performance**

WIOA establishes three scores for the assessment of performance:

1. Individual indicator score – the actual outcomes for each of the primary indicators of performance are compared to the Adjusted goals within each program.
2. Program score – the actual outcomes of a core program across all indicators are compared to the Adjusted goals for that program. The percentages are then averaged, resulting in the overall State program score for each core program (i.e. Title I Adult, DW, and Youth, Title II Adult Ed, Title III Wagner-Peyser, and Title IV Vocational Rehabilitation).
3. State Indicator score – the individual indicator score for each of the primary indicators of performance across all programs (i.e. Title I Adult, DW, and Youth, Title II Adult Ed, Title III Wagner-Peyser, and Title IV Vocational Rehabilitation) are averaged to calculate the State Indicator score. Note that the individual indicator score must be calculated first.

These scores are applied differently at the State and Local level as follows:

#### **State Level Performance**

State level performance is assessed by USDOL's Employment & Training Administration (ETA) based on all three scores: Individual Indicator score; Program score; and State Indicator score.

State performance is considered unsatisfactory when any of the following occur:

- Any of the Individual Indicator scores fall below 50% for the program year.
- Any Program score falls below 90% for the program year.
- Any State Indicator score falls below 90% for the program year.

If the State receives an unsatisfactory performance rating, then the State will receive technical assistance and assistance in the development of a Performance Improvement

Plan (PIP) provided by the USDOL/ETA. Furthermore, fiscal sanctions will be applied if the State receives an unsatisfactory performance rating on the same measure for two consecutive years.

### **Local Level Performance**

Local performance is assessed by NYSDOL on the Individual Indicator score only. It is limited to performance of the Title I (Adult, DW, and Youth) programs. Actual performance outcomes will be compared to the LWDB's Adjusted goals after the close of the program year to determine if Local performance goals were achieved.

WIOA allows the State flexibility in defining unsatisfactory performance at the Local level. As such, the unsatisfactory performance threshold is an outcome-to-goal ratio of less than 80% per indicator for a program year.

The LWDB must develop a PIP for unsatisfactory performance of an indicator in a program year. NYSDOL will also provide technical assistance, which may include assistance in the development of the PIP and/or other actions designed to assist the local area in improving performance.

If a local area receives unsatisfactory performance for the same indicator for three consecutive program years, the Governor must take corrective action which includes development of a reorganization plan. The Governor will:

- Require the appointment and certification of a new LWDB; or
- Prohibit the use of eligible providers and one-stop partners that have been identified as achieving poor levels of performance; or
- Take other significant actions as deemed appropriate.

Note that Local Performance impacts State Performance. Therefore, unsatisfactory performance on the Local level can lead to fiscal sanctions at the State level.

## **ACTION**

Local Workforce Development Boards must:

1. Ensure all NYS Career Center staff understand the Primary Indicators of Performance, Local goals, and the operational procedures to achieve the goals.
2. Negotiate Local Primary Indicators of Performance goals.

At the beginning of each negotiation cycle, NYSDOL will calculate Proposed goals for each LWDA based primarily on the Statistical Adjustment Model and provide them on the NYSDOL website at <https://www.labor.ny.gov/workforcenypartners/wioa/wioa-performance.shtm>.

NYSDOL will notify LWDB Directors via email when the Proposed goals for the program years being negotiated are ready. The notification will contain deadlines related to the process and any necessary additional instructions.

LWDBs must review Proposed goals for their LWDA in collaboration with One-Stop Career Center Managers and determine if the Proposed goals are acceptable or need to be negotiated further.

Each LWDB must provide its determination to NYSDOL via email to: [DEWS.Performance@labor.ny.gov](mailto:DEWS.Performance@labor.ny.gov), with a copy to the State Representative, and with the subject line "{LWDA Name} Performance Goal Negotiation."

The body of the email must demonstrate collaboration with Career Center Managers in the LWDA, and contain:

- a. The program year(s) the LWDB wishes to negotiate;
- b. The indicator(s) the LWDB wishes to negotiate and the desired goal for each indicator;
- c. Justification of the level of desired goal; and
- d. The indicators which the LWDB accepts from the Proposed goals provided by NYSDOL, thereby making them Negotiated goals.

Upon receipt of this email from an LWDB, NYSDOL will coordinate with the LWDB to negotiate agreement on the goals for the identified indicator(s) as necessary. The negotiation process will be conducted via email. If NYSDOL and the LWDB are unable to reach agreement via email, NYSDOL will schedule a conference call to complete the negotiation process.

Once negotiations are complete, the Negotiated goals will be posted on the NYSDOL website at <https://www.labor.ny.gov/workforcenypartners/wioa/wioa-performance.shtm>.

Negotiated goals are revised after the end of the program year using the Statistical Adjustment Model, resulting in Adjusted goals. Adjusted goals will be posted on the NYSDOL website at <https://www.labor.ny.gov/workforcenypartners/wioa/wioa-performance.shtm> and will be used to determine Local Performance as noted in the Policy section of this WDS TA.

## REFERENCES

Workforce Innovation and Opportunity Act §463.155, §677.155, §677.190, §677.200, and §677.220 issued August 19, 2016, Primary Indicators of Performance and State Indicators of Performance for Core Programs, Joint Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions, Final Rule. Vol. 81, No. 161, Part V.

[Training and Employment Guidance Letter \(TEGL\) No. 10-16, Change 1](#) (August 23, 2017), Performance Accountability Guidance for Workforce Innovation and Opportunity Act (WIOA) Title I, Title II, Title III and Title IV Core Programs.



[TEGL No.9-17](#) (February 16, 2018), Negotiating Performance Goals for the Workforce Innovation and Opportunity Act (WIOA) Title I Programs and the Wagner-Peyser Employment Service as amended by Title III of WIOA, for Program Year (PYs) 2018 and PY 2019.

WDS-TA #17-5 – Primary Indicators of Performance: Local Workforce Development Area Goals and Negotiations for Workforce Innovation and Opportunity Act Program Years 2016 and 2017, Titles I and III. (May 31, 2017)

## **INQUIRIES**

Questions regarding this TA may be directed to [DEWS.Performance@labor.ny.gov](mailto:DEWS.Performance@labor.ny.gov)