

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WIA/Planning/Section 166
	CORRESPONDENCE SYMBOL OWI/DAS/INAP
	DATE June 8, 2010

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 29-09

TO: ALL SECTION 166 INDIAN AND NATIVE AMERICAN GRANTEEES

FROM: JANE OATES /s/
Assistant Secretary

SUBJECT: One-Year Extension of the Program Year (PY) 2008-2009 Two-Year Strategic Plan for the Workforce Investment Act (WIA), Indian and Native American Program for PY 2010.

1. **Purpose.** The purpose of this Training and Employment Guidance Letter (TEGL) is to notify Indian and Native American grantees of the Employment and Training Administration's (ETA) decision to provide designated grantees with the option to extend the two-year Comprehensive Services Program (CSP) plan and Supplemental Youth Services Program (SYSP) plan through PY 2010. The reason for extending the current two-year plan is to align the Native American Program's planning cycle with the State Workforce System's planning cycle (State Workforce strategic plans have been extended for one additional PY). This will allow better coordination between the States and the Native American Program when developing partnerships and negotiating Memorandums of Understanding. In addition, the Department of Labor (DOL) is anticipating the reauthorization of WIA within the next year which may require the two-year strategic plans to be modified again.

NOTE: An extension to the two-year strategic plan is contingent upon your organization being designated as a WIA, Section 166 grantee for PY 2010-2011, pursuant to Solicitation for Grant Application (SGA) No. SGA-DFA-PY-09-04, which was published in the Federal Register on March 12, 2010. Incumbent grantees that are not selected as WIA Section 166 grantees for PY 2010-2011 will not receive PY 2010 funds and, therefore, do not need a 2010 plan. Such entities must discontinue services on June 30, 2010, unless the entity receives a "no cost" grant extension from the Grant Officer. The Grant Officer will notify each entity, in writing, of its designation status no later than June 30, 2010.

RESCISSIONS: None	EXPIRATION DATE: Continuing
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New entities designated through the SGA process will be required to submit a one-year plan for PY 2010. Upon notification of designation, new grantees will receive planning instructions along with required planning documents.

2. **References.**

- a. Section 166 of WIA located at:
<http://www.doleta.gov/dinap/cfml/wiapage.cfm>;
- b. Regulations implementing the WIA Section 166 Indian and Native American Program located at: <http://www.doleta.gov/dinap/cfml/wiapage.cfm>;
- c. TEGL 17-05, Common Measures Policy for the ETA's Performance Accountability System and Related Performance Issues located at:
http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2195;
- d. DINAP Bulletin 99-05, Administrative Costs Limitations under the WIA located at:
<http://www.doleta.gov/dinap/bulletins/99-05.cfm>;
- e. TEGL 16-08, Guidance for Implementation of WIA Funding in the American Recovery and Reinvestment Act (ARRA) of 2009 as required by Subtitle D, Section 166, Native American Program located at:
http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2731;
- f. TEGL 5-09, Reporting Guidance and Instructions for the WIA, Section 166, Indian and Native American (INA) Program Supplemental Youth Services Program, including Performance Accountability Reporting for the ARRA at:
http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2803; and
- g. TEGL 21-09, Instructions for Submitting WIA and Wagner-Peyser Act State Plans and Waiver Requests for Program Year 2010 located at:
http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2885.

3. **Background.** All Section 166 two-year plans currently in effect will expire on June 30, 2010. WIA and the implementing regulations require Section 166 grantees to submit a two-year CSP, including, if applicable, an SYSP that is approved by ETA in order to receive PY 2010 funds. Because the State Workforce System's planning cycle has been extended for one additional PY, a similar extension is being provided to existing Section 166 plans in order to improve coordination between the State Workforce Systems and Section 166 grantees. Therefore, ETA is providing two options to extend or modify current plans in order to enable Section 166 grantees to have an approved plan in place for PY 2010, without submitting a "full" two-year plan. If WIA is reauthorized and requires changes to the INA grantee plans, ETA will issue subsequent guidance on implementing any new requirements. ETA will also issue subsequent guidance on planning requirements for PY 2011.

Accordingly, upon an organization's "designation" as a Section 166 grantee for PY 2010-2011, the Grant Officer will automatically process and issue unilateral grant modifications to add PY 2010 funds to Section 166 CSP and SYSP grants, unless a grantee initiates a

request to modify their current two-year strategic plan. Any modifications to the current two-year strategic plan will require prior ETA approval before PY 2010 funds can be added to the existing WIA grant. The two options -- extension and modification -- are discussed in item No. 4 below.

4. **Section 166 Designated Grantee Options for PY 2010.** There are two options for current grantees to secure approval of their CSP and SYSP plan for PY 2010, the first year of the new PY 2010-2011 two-year planning cycle -- July 1, 2010-June 30, 2011.

A. **Option I: ETA Approves an Extension of the Current Section 166 Grantee CSP and SYSP Plans for an Additional Year, Through PY 2010 (July 1, 2010- June 30, 2011).**

As noted above, WIA and the implementing regulations require Section 166 grantees to have an approved plan in place in order to receive Section 166 allotments. ETA will consider this legislative requirement met by approving an extension of the current plan for an additional PY for current Section 166 grantees who do not wish to change their current plan.

Procedure for Option 1: In order to avoid placing unnecessary burden on Section 166 grantees, Section 166 grantees do not need to submit anything in order to have their plan approved for an extension of one additional PY. Unless a Section 166 grantee elects to modify its plan, ETA will approve an extension of the existing plan for an additional PY. By June 30, 2010, ETA will send Section 166 grantees who do not request modification a letter approving an extension of the existing CSP and SYSP plans for the period, July 1, 2010 - June 30, 2011.

B. **Option II: ETA Reviews and Approves the Plan Modification Submitted by Section 166 Grantee for PY 2010 (July 1, 2010 – June 30, 2011).**

1. Pursuant to 20 C.F.R. 668.750, Section 166 grantees may request approval from ETA to modify a plan to add, expand, delete, or diminish any service allowable under the regulations. Any Section 166 grantee that wishes to modify its current plan instead of receiving approval for an extension of its current plan, must submit a plan modification for the period of PY 2010, i.e., from July 1, 2010 - June 30, 2011, by **June 30, 2010**. As noted above, ETA will issue subsequent guidance on planning requirements for PY 2011.

2. Grantees must request a modification to their current two-year plan if significant changes are planned or circumstances require significant changes to the scope, purpose, or design of the grant, such as:

- a. An expectation that the total number of participants to be served annually will be reduced by a number which exceeds 25 percent of the participants previously proposed to be served, or by 25 participants, whichever is larger;
- b. A change in the grantee's service area resulting from the designation process described in the SGA;

- c. A significantly different approach in providing services to participants than what is currently described in the two-year plan;
- d. A determination that the strategy provided in the current two-year plan is not meeting the workforce needs of the community;
- e. Shifts in the local labor market and/or employer demands (such as job skill training) which require a strategy that is significantly different from the current approved plan;
- f. A change in the efficiency level provided in the PY 2008-2009 strategic plan;
- g. A change in the way ARRA funds will be used; or
- h. A change in the administrative cost limit that was approved in the PY 2008-2009 plan.

Grantees that are uncertain whether a change to their two-year strategic plan will require a modification should contact their Federal Project Officer.

Procedure for Option II: To modify the existing two-year strategic plan, grantees must submit the following items by June 30, 2010:

1. A signed cover letter that identifies the items in the existing plan that the grantee is requesting to change;
 2. Three copies of the Grant Signature Sheet with original signatures (See Attachment A);
 3. A revised planning narrative or administrative cost limit justification; and
 4. A revised Attachment C included in this TEGL.
5. **Period of Performance.** The PY 2008–2009 two-year strategic plan will be unilaterally extended for an additional PY which will cover the period July 1, 2010 - June 30, 2011. Grantees should be aware that SYSP funds were not available in their grantee subaccount on April 1st, however, grantees may use “carryover” funds from previous PYs (if available) to implement the SYSP. Grantees that do not have carryover funds from previous PYs may use other (nonrestricted) resources to begin operating a SYSP and reimburse the resource for allowable costs (retroactive to April 1st) when funds become available in grantee subaccounts.

However, grantees should be aware that issuance of a formal commitment or obligation of DOL funds will only occur when a Notice of Obligation has been issued by the Grant Officer and after grantee designation. Grantees that do not receive an official “designation” letter from the Grant Office or that have been “conditionally” designated

have a greater risk of not being reimbursed for funds that have been used for their WIA Program.

6. **PY 2010 Funding Allocations.** The PY 2010 appropriation levels for the Section 166 CSP are \$52,758,000 and \$13,861,035 for the SYSP. The allotments on Attachments D and E of this TEGL are for planning purposes only and are not an official commitment/obligation by DOL and do not reflect any changes that may occur as a *result of the recent SGA*. Tribes and Tribal organizations that have been designated as a Section 166 grantee will receive an official Notice of Obligation from the Grant Officer.
7. **Unspent Funds from Prior Program Years.** The INA Program continues to emphasize full utilization of WIA funds by grantees. While some improvement has been made, some grantees continue to have large amounts of unspent funds remaining at the end of the PY. Considering the high unemployment rate and the skills gap that exists among many Native Americans, it is in the best interest of the WIA Section 166 community to reallocate excessive carryover funds.

During PY 2010, ETA and the Employment and Training Council will develop policy to implement the WIA regulations at 20 C.F.R., Section 668.296(d) that allow the reallocation of carry-in that is in excess of 20 percent of the total funds available. A TEGL will be released later in the year that will explain the recapture and redistribution process in further detail.

8. **Adult Common Measures - Levels of Performance.** TEGL 17-05 established the following three performance outcomes for the INA Program: **1) Entered Employment Rate (EER); 2) Retention Rate** and; **3) Average Earnings**. Grantees are expected to meet the minimum level of performance for each of these three goals. The minimum standards of performance on the EER are established using a regression model developed by Social Policy Research Associates (SPRA) which takes into consideration the economic conditions in the grantee's geographic service area and the socioeconomic characteristics of the participants served in the previous PY. Currently, the EER is the only measure for which minimum levels of performance have been established. Attachment B provides an example of a Performance Standard Worksheet for the EER. Since levels of performance are specific to each grantee, SPRA will post the actual Performance Standard Worksheet for the EER for all grantees on the INA Program's new Community of Practice website located at: http://ina.workforce3one.org/page/performance_measures.

The INA Program has not established minimum levels of performance for Retention Rate or Average Earnings. Until minimum levels of performance can be established for these two measures, grantees should strive to meet the PY 2010 national targets which are:

- 1) Retention Rate - 74.9 percent; and
- 2) Average Earnings - \$9,245.

Since the national targets for the retention rate and average earnings are not adjusted for each grantee's local economic conditions, grantees that do not meet the national targeted level will not be considered as having "failed" these two measures.

In addition to the common measures, OMB has placed an emphasis on efficiency for all Federal programs. Grantees were required to provide an efficiency level in the PY 2008 - 2009 strategic plan using Attachment C. Unless a modification is submitted to request a change in the efficiency level, the level established in the PY 2008–2009 two-year strategic plan will remain in effect for PY 2010.

9. Youth Measures - Levels of Performance.

On September 4, 2009, ETA released TEGL 5-09 which revised the SYSP report (ETA form 9085). The revised report established the following two measures for the SYSP Program:

- 1) Attainment of Two or More Goals; and
- 2) Educational Attainment for Dropouts.

The *Attainment of Two or More Goals* measure existed under the previous youth reporting form with a level of performance of 60 percent. The *Educational Attainment for Dropouts* measure has been calculated at the national level; however, levels of performance for individual grantees have never been established. In order to establish individual levels of performance, a regression model must be developed which takes into consideration the participant characteristics that each grantee serves.

Until a regression model can be developed for the *Educational Attainment for Dropouts* measure, grantees are encouraged to strive for a 60 percent level of performance. However, grantees that do not meet the 60 percent level of performance will not be considered as having “failed” this measure.

In addition, TEGL 5-09 revised the SYSP report (ETA form 9085) to include data elements relevant to ARRA - including the following performance indicators:

- 1) Work Readiness Attainment Rate; and
- 2) Summer Employment Completion Rate.

ARRA only required a “*Work Readiness*” indicator for the INA youth funding; therefore, a goal of 63 percent was established for this measure. The “*Summer Employment Completion Rate*” is an additional performance indicator that was not required by ARRA and, therefore, a goal was not established for this measure.

- 10. ARRA Youth Funding (as applicable).** As indicated in TEGL 16-08, the purpose of ARRA is to stimulate the Nation’s economy and provide quick assistance to those impacted by the economic downturn. To meet this purpose, INA grantees were instructed to quickly use ARRA funding - consistent with prudent management - to provide youth with educational opportunities and increased summer employment. In addition, TEGL 16-08 strongly encouraged grantees to use as much of the ARRA funding as possible during the summer of 2009.

As of December 31, 2009, a substantial amount of INA’s ARRA youth funding remained unspent. These unspent ARRA funds will soon be supplemented by the PY 2010 SYSP allocation. **NOTE: It is important for grantees that have unspent ARRA funds at the**

beginning of the summer to substantially increase the number of youth served and expand summer employment or training services. The INA Program is requesting that all grantees fully expend their ARRA funds by September 30, 2010. ARRA funding is to be spent concurrently with - and not in lieu of - any prior year/carryover funds or the new PY 2010 funding.

TEGL 16-08 required grantees to modify their PY 2008-2009 plan to incorporate ARRA funds. Therefore, grantees wishing to modify the way in which ARRA funds are used must modify their two-year strategic plan using the procedures identified in item No. 4B above.

11. **Administrative Cost Limit.** The administrative cost limit approved in the PY 2008–2009 plan will remain in effect for PY 2010. However, grantees may submit a modification to their PY 2008–2009 plan and request to change their administrative cost limit. Grantees that request to increase the administrative cost limit above the 15 percent limit must provide justification per DINAP Bulletin 99-05.
12. **Waivers.** WIA Section 166(h)(3) permits waivers of any statutory or regulatory requirement except for those areas cited in 20 C.F.R. 668.920. A waiver can be requested at any time. When submitting a waiver, grantees must follow the WIA regulations at 20 C.F.R. 661.420(c). Waiver approvals require a separate process and, therefore, should not be included in a plan modification.
13. **Acquisition of Equipment.** Grant Officer approval is required prior to the acquisition of equipment that has a useful life of more than one-year and an acquisition cost of \$5,000 or more per unit pursuant to OMB Circulars A-102 [29 C.F.R. 97.33] and A-110 [29 C.F.R. 95.2 (n)]. Approval of equipment is a separate process; therefore, grantees must submit requests for the purchase of equipment separately. These requests cannot be included in a modification.
14. **Tools and Resources.** The INA Program, in partnership with the Native American Advisory Council’s Information Technology Workgroup, created a Native American “Community of Practice” website to provide Native American Workforce Professionals with useful information on administering a Native American WIA grant. We encourage INA grantees to visit this website to obtain helpful information on managing an INA WIA grant -including guidance on the two-year planning process. The Web site is: <http://ina.workforce3one.org/>.
15. **Action Requested.** Action is required only if a grantee requests a modification to the PY 2008-2009 plan in accordance with item No. 4B above. If a grantee is designated as a Section 166 grantee for PY 2010 through the recent competitive process, and does not submit a request for modification to the existing grant by June 30, 2010, the Grant Officer will automatically issue a unilateral modification to add PY 2010 funds to the current grant, which must be spent in accordance with the terms of the extended plan. Grantees that plan to make significant changes to their service delivery must submit a request for a modification using the guidance provided in item No. 4B above. Modifications must be submitted to the INA Program office by close of business June 30, 2010. Modifications must be approved by the Grant Officer before PY 2010 funds can be obligated. Please submit modifications to the following address:

U.S. Department of Labor
 Indian and Native American Program
 200 Constitution Avenue, N.W.
 Room S-4209
 Washington, D.C. 20210

ATTN: MIS-CSP DESK

16. **Inquiries.** Please direct questions to your designated Federal Project Officer provided below.

Andrea Brown (East)	(202) 693-3736	Duane Hall (Midwest)	(972) 850-4637
Craig Lewis (Midwest)	(202) 693-3384	Guy Suetopka (West)	(415) 625-7988
Dawn Anderson (Midwest)	(202) 693-3745	Si Seciwa (West)	(415) 625-7987

17. **Attachments.** Attachments A and C must be included when requesting a modification to the PY 2008-2009 plan. **NOTE:** The attachments below are only required if a modification is being requested. Do not submit the documents below if a modification is not being requested (See item No. 4 and item No.15 above).

Attachment A: Grant Signature Sheet
 Attachment C: Participant Planning, Efficiency and Outcomes Worksheet

The Following Attachments are for Information Only:

Attachment B: Example of EER Performance Standard Worksheet
 Attachment D: Draft SYSP Allotments
 Attachment E: Draft CSP Allotments