

**Subtitle D-National Programs Section 166 Native American Programs
WIA/WIOA Performance Side-by-Side Comparison**

Workforce Investment Act of 1998 Sec. 166 Performance Measures	Workforce Innovation and Opportunity Act Section 166 Performance Accountability Measures	Comments
<p>(h) ADMINISTRATIVE PROVISIONS – (2) REGULATIONS - The Secretary shall consult with entities described in subsection (c) in (A) establishing regulations to carry out this section, including performance measures for entities receiving assistance under such subsection, taking into account the economic circumstances of such entities;</p>	<p>(h) PERFORMANCE ACCOUNTABILITY MEASURES –</p> <p>(1) ADDITIONAL PERFORMANCE INDICATORS AND STANDARDS –</p> <p>(A) Development Of Indicators And Standards - The Secretary, in consultation with the Native American Employment and Training Council, shall develop a set of performance indicators and standards that is in addition to the primary indicators of performance described in section 116(b)(2)(A) and that shall be applicable to programs under this section.</p> <p>(B) Special Considerations - Such Performance indicators and standards shall take into account-</p> <p>(i) The purpose of this section as described in subsection (a)(1);</p> <p>(ii) the needs of the groups served by this section, including the differences in needs among such groups in various geographic service areas; and</p> <p>(iii) the economic circumstances of the communities served, including differences in circumstances among various geographic service areas.</p> <p>(2) AGREEMENT OF ADJUSTED LEVELS OF PERFORMANCE - The Secretary and the entity described in subsection (c) shall reach agreement on the levels of performance for each of the primary indicators of performance described in section 116(b)(2)(A), taking into account economic conditions, characteristics of the individuals served, and other appropriate factors and using, to the extent practicable, the statistical adjustment model under section 116(b)(3)(A)(viii). The levels agreed to shall be the adjusted levels of performance and shall be incorporated in the program plan.</p> <p>(i) ADMINISTRATIVE PROVISIONS – (2) REGULATIONS – The Secretary shall consult with the entities described in subsection (c) in (A) establishing regulations to carry out this section, including regulations relating to the performance accountability measures for entities receiving assistance under this section;</p>	<p>WIOA’s mandate of “primary indicators of performance” removes consultation with Section 166 Indian and Native American (INA) programs and Native American Advisory Council to develop performance measures in accordance with the purpose and intent of Section 166. This change may violate Executive Order-13175; DOL’s relationship to engage, consult and collaborate with tribal officials in the development of federal policies that have tribal implications.</p> <p>WIOA increases the reporting burden for Section 166 programs by using a more complex set of measures, common with core programs. More than one-third of the Sec 166 CSP grantees are allocated less than \$100,000; implementation and management of the performance indicators and standards is a concern.</p> <p>ETA is <u>not</u> able to develop an accurate statistical regression model to establish fair and reasonable levels of performance for each indicator. Special considerations and adjustments for levels of performance are problematic since there is limited, in some cases, no statistical tribal data available that captures economic circumstances for the various Indian and Native American geographic service areas. American Community Survey (ACS) data is no solution to this concern because it does not measure economic factors consistent with DOL’s Bureau of Labor Statistics labor force definitions. Moreover, the level of sampling error for many tribal areas indicates the data is unreliable. A waiver provision for performance is strongly recommended.</p> <p>New performance indicators expand the use of Wage Records and program requirement to share participant records with personal identifying information. Confidentiality assurances have not been provided by ETA in accordance with the Privacy Act for the protection and security of participant data.</p>