

**U.S. Department of Labor**

Employment and Training Administration  
Dallas Regional Office  
525 S. Griffin Street, Room 317  
Dallas, TX 75202



September 29, 2021

Laurie Esau  
Commissioner  
Montana Department of Labor & Industry  
1315 Lockey Avenue  
Helena, Montana 59601

RE: Grant# AA-33232-19, AA-34771-20,  
ES-33452-19, ES-35353-20, DW-34900-20

Dear Mrs. Esau:

My staff conducted an enhanced desk monitoring review of the Montana Department of Labor & Industry's (MDLI) Workforce Innovation and Opportunity Act titles I and III programs and COVID-19 National Dislocated Worker Grant (NDWG) May 24 – June 8, 2021. The review included the governance, financial and administrative activities, and service delivery of the Adult, Dislocated Worker, Youth, and Wagner-Peyser programs, and the COVID-19 Employment Recovery NDWG administered by MDLI.

The enclosed report identifies six compliance findings, four areas of concern, and a promising practice. I would appreciate a response to the findings outlined in the report within 45 calendar days from the date of this letter. Your response should include the corrective actions taken or planned with timeframes to complete them. Please send your response to [r04radal@dol.gov](mailto:r04radal@dol.gov) with a copy to Eva Drinkwine, Federal Project Officer, at [drinkwine.eva.m@dol.gov](mailto:drinkwine.eva.m@dol.gov).

Please thank your staff for their cooperation during the review. If you have any questions, please contact Regional Director Frank Stluka at (214) 598-6283 or Federal Project Officer Eva Drinkwine at (972) 850-4631.

Sincerely,

 /for

NICHOLAS E. LALPUS  
Regional Administrator

Enclosures

## **EXECUTIVE SUMMARY**

The Employment and Training Administration (ETA) conducted an enhanced desk monitoring review (EDMR) of the Workforce Innovation and Opportunity Act (WIOA) titles I and III, and COVID-19 National Dislocated Worker Grant (NDWG) programs administered by the Montana Department of Labor & Industry (MDLI). The program aspects of the review included governance and the service delivery of the Adult, Dislocated Worker, Youth, Wagner-Peyser, and NDWG programs. ETA reviewed 15 participant files, policies and procedures, and the program, financial, and administrative activities of MDLI.

This report contains information on program quality and compliance. Findings indicate activities not compliant with established statutes, regulations, Departmental guidance, and the grant agreement. Areas of concern indicate opportunities to enhance service delivery or improve results, and promising practices indicate activities that play an integral role in advancing the purpose of the grant and may be shared with other states or grantees.

This report contains six compliance findings, four areas of concern, and a promising practice.

Finding #1: State Workforce Innovation Board (SWIB) Membership

Finding #2: SWIB By-laws

Finding #3: Regions

Finding #4: Memorandums of Understanding (MOU) with Native American Programs

Finding #5: WIOA Grievance Procedures

Finding # 6: NDWG Performance Reporting

Area of Concern #1: WIOA Performance Outcomes for Program Year (PY) 2018 and 2019

Area of Concern #2: Youth Policy

Area of Concern #3: NDWG Enrollments and Disbursements

Area of Concern #4: NDWG Policies

Promising Practice: Montana Career Information System (CIS)

This report documents the issues substantiated during the review; however, there is no assurance that other issues do not exist.

## **SCOPE OF REVIEW**

### **Dates of Review**

May 24 – June 8, 2021

### **Date of Exit Conference**

June 8, 2021

### **Sites Visited**

Enhanced Desk Monitoring Review

**Reviewers**

Eva Drinkwine, Federal Project Officer, U.S. Department of Labor (DOL), ETA  
Karen Nelson-Hunter, Federal Project Officer, U.S. DOL, ETA

**MDLI Attendees at Exit Conference**

Scott Eychner, Administrator  
Erin Weisgerber, Deputy Administrator  
Shannon Lewis, SWIB Program Director  
Rhonda Huseby, Job Service Operations Bureau Chief  
Roy Valdez, Programs Director  
Maggie Wright, One-Stop Operations & Special Projects Manager  
Raquel Smitham, Reports & Data Management Manager  
Joe Rangitsch, Program Monitoring Supervisor  
Janelle Painter, Financial Services Supervisor  
Jarred Roope, Program Manager  
Candi Spencer, Program Manager  
Connie Kinsey, Program Manager  
Chery Sabol, Program Manager  
Martina Nolte, Monitoring Specialist  
Elizabeth VanDePolder, Monitoring Specialist  
Donna Newhall, Monitoring Specialist  
Jane Demeray, Policy Analyst  
Michelle Marsh, Budget Analyst

**Purpose of the Review**

The purpose of the review was to determine if the programs were in compliance with Federal requirements, assess if policies and procedures were in place to produce quality program outcomes, identify areas in need of technical assistance, and collect promising practices.

**Grant/Programs Reviewed**

WIOA title I (governance, Adult, Dislocated Worker, and Youth) and title III  
COVID-19 Employment Recovery NDWG

**Time Period for Data Covered in Review**

July 1, 2017 – Present

**Tools Used for Review**

ETA Core Monitoring Guide  
WIOA Shared Monitoring Guide  
WIOA Youth Supplement to the Core Monitoring Guide

## **BACKGROUND**

WIOA became law on July 22, 2014, to help job seekers access employment, education, training, and support services to succeed in the labor market, match employers with the skilled workers to compete in the global economy, and for other purposes.

MDLI administers WIOA titles I and III, COVID-19 NDWG, Jobs for Veterans State Grant programs, Registered Apprenticeship, Senior Community Service Employment Program, and other programs. MDLI provides many of these services through its 16 American Job Centers (AJCs), including one comprehensive and 15 affiliate centers.

Due to the COVID-19 pandemic, a number of providers closed to the general public March 2020 – June 27, 2021. However, service providers continued to provide workforce services by appointment or through the use of technology. AJC's enhanced their service approach through the use of electronic intake forms, virtual workshops, and virtual job seeker services.

On January 31, 2020, the Secretary of the U.S. Department of Health and Human Services declared COVID-19 a nationwide public health emergency. On March 18, 2020, ETA announced the availability of up to \$100 million for NDWGs to help states and communities address the workforce-related impacts of the COVID-19 public health emergency.

ETA awarded MDLI \$582,750 for a COVID-19 NDWG to provide 155 eligible participants with employment and training services. As of the quarter ending June 30, 2021, MDLI expended \$154,227 or 26 percent of the total award and enrolled five of its 155 projected participant goal, with 15 months or 55 percent of the time elapsed from the time of award.

As of the quarter ending June 30, 2021, MDLI met or exceeded its negotiated goals on all WIOA core measures, except for the Youth employment education or training placement rate, credential rate, and measurable skill gains rate. MDLI reported services for 420 adults, 154 dislocated workers, 207 youth, and 20,478 Wagner-Peyser participants. MDLI's PY 2020 WIOA performance goals and outcomes are detailed in Enclosure 2.

## **FINDINGS**

### **Finding #1: SWIB Membership**

The SWIB, which functions as the State Workforce Development Board, did not meet membership requirements in two areas: labor organizations and the minimum of 20 percent workforce representation. The SWIB has one labor organization in its 26 member state board, of which four or 16.6 percent represent workforce. This gives Montana's workforce less input into the State's workforce development strategies than WIOA intends.

This was due to members retiring in December 2020, and the SWIB by-laws not including a process to notify the Governor of vacancies.

WIOA sec. 101(b)(1)(C)(ii)(I) and 20 CFR § 679.110(b)(3)(ii)(A) requires that the board consist of two or more representatives of labor organizations nominated by State labor federations.

WIOA sec. 101(b)(1)(C)(ii) and 20 CFR § 679.110(b)(3)(ii) requires that no less than 20 percent of the members be representatives of the workforce.

**Corrective Action:** The State must appoint a member that represents a labor organization, and is nominated by State labor federations, to meet the 20 percent workforce representation requirement. MDLI must submit a revised board roster that complies with all SWIB membership requirements.

### **Finding #2: SWIB By-laws**

The SWIB's by-laws did not include a process to notify the Governor of workforce development board (WDB) vacancies. Not having the aforementioned process in the SWIB by-laws results in not appointing members promptly and the lack of representation and input within a category as intended by WIOA. The State is in the process of revising its SWIB by-laws, and plans to have them approved at its SWIB meeting in September 2021.

20 CFR § 679.110(d)(3) requires that by-laws, at a minimum, include the process to notify the Governor of a WDB member vacancy to ensure a prompt nominee.

**Corrective Action:** MDLI must submit revised SWIB by-laws that comply with all WIOA requirements in September 2021.

### **Finding #3: Regions**

The SWIB did not identify regions, establish a policy and procedure to identify regions, or develop a regional plan. The State is in the process to establish a policy and procedure to identify its State as a single planning region in the upcoming state plan modification process; the state plan modification will also serve as its regional plan.

This was due to a misinterpretation of the waiver approved by ETA on August 20, 2020, that allows the SWIB to carry out the roles and responsibilities of local WDBs in the State.

WIOA sec. 101(d) and 20 CFR § 679.130(c)(5) requires state boards to assist the Governor identify regions. 20 CFR § 679.210(b) requires that the Governor develop a policy and process to identify regions. Given that the SWIB, under a waiver, carries out the roles and responsibilities of the local WDB, it must adhere to WIOA sec. 106(c)(A) and 20 CFR § 679.370(b) which requires the development of a regional plan.

**Corrective Action:** The SWIB must submit a policy and process, including a plan with a timeline for identifying regions and submission of its regional plan.

#### **Finding #4: MOU with Native American Programs**

The SWIB did not enter into an MOU with six of the required WIOA sec. 166 grantees. There are eight sec. 166 grantees in the State, of which the SWIB only established an MOU with two. ETA sent the sec. 166 grantees notification of the WIOA requirements and the SWIB expects to establish an MOU with the additional six grantees before the end of calendar year 2021.

Without MOUs in place, there is no certainty that one-stop partners share the responsibility of operating an integrated one-stop delivery system and coordinate services to meet the demands of the workforce system.

20 CFR § 678.500(a) and Training and Employment Guidance Letter (TEGL) 16-16, One-Stop Operations Guidance for the AJC Network, dated January 18, 2017, requires state or local workforce development boards to enter into an MOU with the required one-stop partners.

20 CFR 678.400(b)(1)(vi) identifies WIOA sec. 166 programs as required one-stop partners.

**Corrective Action:** The SWIB must establish MOUs with all sec. 166 grantees, and submit the signed MOUs.

#### **Finding #5: WIOA Grievance Procedures**

MDLI service providers did not provide participants and other interested parties information on the State's WIOA grievance and complaint procedures. By not providing a recourse for participants and other interested parties to express concerns, service providers do not provide access to grievance and complaint rights guaranteed under WIOA title I.

This was due to a misinterpretation that WIOA grievances and EEO complaints were the same.

20 CFR § 683.600(b)(1) requires each local area, state, and direct recipient of title I funds to provide information about the content of the grievance and complaint procedures required by § 683.600 to participants and other interested parties.

20 CFR § 658.400(b) and 20 CFR § 683.800(g)(1) further clarify that the grievance and complaint procedure pursuant to WIOA title I do not apply to the Employment Services Complaint System and discrimination complaints brought under the Equal Opportunity Law, 20 CFR § 188 and/or 29 CFR Part 38.

**Corrective Action:** MDLI must submit documentation demonstrating that it or its subrecipients provided information about the content related to MDLI's WIOA grievance procedures.

## **Finding #6: NDWG Performance Reporting**

MDLI did not record reportable individual services for its NDWG participants in its management information system (MIS). Staff gathered or documented measureable skills gains and demographic data, and provided services; however, the data was not entered into the MIS:

- Participant 2200978010: lack of MSG, yet case notes reflected the receipt of semester grades.
- Participant 2201028428: demographic data was missing, yet the WIOA Application form contained the data.
- Participant 2201028428: participation period was missing, yet the participant was determined eligibility and received services.

Delayed entry of participant data and reportable individual services could lead to inaccurate reporting.

TEGL 12-19, NDWG Program Guidance, dated March 18, 2020, attachment 1, sec. 8 requires grantees to submit quarterly performance and narrative reports in accordance with TEGL 14-18, Aligning Performance Accountability Reporting, Definitions, and Policies Across Workforce Employment and Training Programs, dated, March 25, 2019.

TEGL 14-18, attachment 6, requires the accurate collection and reporting of participant level data identified in the Department of Labor only Participant Individual Record Layout, and all relevant data elements, including measurable skill gains and demographic data. In addition, the data must be submitted quarterly.

TEGL 23-19, Guidance on Validating Required Performance Data Submitted by Grant Recipients of U.S. Department of Labor Workforce Programs, dated June 18, 2020, sec. 4 strongly encourages a regular review of program data, such as participant and reportable individual services, (e.g., quarterly) for errors, missing data, out-of-range values, and anomalies and that erroneous data be corrected.

**Required Action:** MDLI recorded the reportable individual services in its MIS and provided screenshots for the aforementioned participant files during the EDMR. To close this finding, MDLI must submit how it will ensure entry of participant data and reportable individual services is not delayed in the future.

## **Area of Concern #1: WIOA Performance Outcomes**

Performance in the Youth and Wagner-Peyser programs fell below the overall performance threshold of 90 percent of the adjusted goals for PY 2018 and PY 2019. Additionally, the youth credential attainment performance measure fell below the 50 percent threshold in PY 2019.

For PY 2020, Wagner-Peyser performance outcomes increased when compared to the MDLI's PY 2020 pre-adjusted negotiated targets. However, the Youth program continues to be

significantly below the PY 2020 pre-adjusted negotiated targets, specifically in the credential attainment rate and measurable skill gains performance measures. The lowest performance occurs in the following services: in-school youth in work experiences and OSY in adult basic education. Factors relating to the provision or documentation of these services are likely contributors to this issue.

If each of these outcomes continue to remain below the 50 percent negotiated measure after the end-of-year target adjustment, or if the average of all Youth program outcomes are below 90 percent of all adjusted targets, MDLI may fail performance.

MDLI continues to examine its procedures related to service delivery, data collection, and data reporting for youth, specifically in-school youth in work experience and out-of-school youth in adult basic education to determine those points in which either performance successes are not being achieved or are not being recorded and reported.

**Recommendation:** MDLI should continue to examine its procedures and communicate its progress with ETA. ETA will continue to provide technical assistance.

## **Area of Concern #2: Youth Policy**

MDLI's WIOA title I Youth Program Policy, dated November 11, 2017, requires out-of-school youth (OSY) to complete a TABE assessment as part of the intake process. This policy also requires the youth service providers to refer OSY to the Adult Basic Education (ABE) providers for the TABE assessment.

This is a result of MDLI's MOU with its core partners, which indicates that youth who need TABE assessments, must be referred to ABE. Generally, this may deter a youth with significant barriers to participate in the Youth program, since a youth may find it difficult to attend a separate (additional) appointment for the TABE assessment, while needing to find transportation, coordinate daycare, or miss school or work.

The Department encourages MOUs with core partners, yet it is also important that these agreements and partnerships do not cause additional barriers to participants in the WIOA programs.

**Recommendation:** MDLI should consider a revision to its MOU with ABE and allow its youth service providers, who have the resources, to administer the TABE assessment, when appropriate.

## **Area of Concern #3: NDWG Enrollments and Disbursements**

MDLI enrollments and disbursements are low, when compared to the time elapsed in the NDWG's period of performance. As of June 30, 2021, MDLI only enrolled five of its 155

projected participant goal, and disbursed \$154,227 or 26 percent of the awarded \$582,750, with 55 percent of the time elapsed in the grant. This is primarily due to slow grant start-up.

MDLI is at risk of not meeting its goals.

**Recommendation:** MDLI should assess the reasons for the slow start-up and develop a plan to increase enrollments and expenditures.

#### **Area of Concern #4: NDWG Policies**

MDLI uses its WIOA title 1 policies and procedures for the NDWG. MDLI's Performance Measures and Monitoring policies state in the "scope" section that the policy applies to the NDWG program; the policies identified by MDLI for this grant, including the Dislocated Worker Program policy and the Supportive Service policy do not include NDWG in the scope section.

Not including NDWG in the scope of all policies applicable to the grant may cause confusion for staff who implement the NDWG.

**Recommendation:** MDLI should review the policies applicable to the NDWG and update the scope section.

#### **PROMISING PRACTICE**

The Montana CIS is an online platform accessible to Montanans to conduct career development and workforce activities, such as completing career, interest, learning style, and employability assessments, building resumes, creating portfolios, and initiating referrals to programs. This platform has three, age-appropriate versions, including CIS Junior, CIS High School and CIS Adult, supporting early engagement of individuals along a career pathway. Information from the platform is saved by MDLI when a participant is referred to WIOA programs, and documentation from the website is saved in the participant's files to expedite enrollment and assessment for the participant.

**Montana WIOA Program Performance**

<b>Adult</b>		
<b>Core Indicators of Performance</b>	<b>PY 2020 Negotiated Goal</b>	<b>Actual Results as of 06/30/2020</b>
Employment Rate (Q2)	71.0%	75% (exceeding goal)
Employment Rate (Q4)	70.0%	75.4% (exceeding goal)
Median Earnings	\$6,159	\$6,691 (exceeding goal)
Credential Attainment Rate	53.0%	53.8% (exceeding goal)
Measurable Skill Gains	58.0%	57.3% (meeting goal)
<b>DISLOCATED WORKERS</b>		
<b>Core Indicators of Performance</b>	<b>PY 2020 Negotiated Goal</b>	<b>Actual Results as of 06/30/2020</b>
Employment Rate (Q2)	71.0%	86.3% (exceeding goal)
Employment Rate (Q4)	70.0%	80.6% (exceeding goal)
Median Earnings	\$7,000	\$9,539 (exceeding goal)
Credential Attainment Rate	53%	56.5% (exceeding goal)
Measurable Skill Gains	56%	62.5% (exceeding goal)

YOUTH		
Core Indicators of Performance	PY 2020 Negotiated Goal	Actual Results as of 06/30/2020
WIOA Employment, Education, or Training Placement Rate (Q2)	60%	53.1% (88.5% - not meeting goal)
Employment, Education, or Training Placement Rate (Q4)  Median Earnings	55%	52.9% (meeting goal)
	\$3,200	\$2,883 (meeting goal)
Credential Attainment Rate	50.5%	19.4% (38.4% - not meeting goal)
Measurable Skill Gains	50%	16.4%
		(32.8% - not meeting goal)
WAGNER-PEYSER		
Core Indicators of Performance	PY 2020 Negotiated Goal	Actual Results as of 06/30/2020
Employment Rate (Q2)	67.0%	67.1% (exceeding goal)
Employment Rate (Q4)	65.0%	64.4% (meeting goal)
Median Earnings	\$5,600	\$5,821 (exceeding goal)