Colorado Department of Labor and Employment
Performance Management Achievement Pay Program
Implementation Plan
Revised: July 1, 2008

1. Purpose and Basis

The Colorado Department of Labor and Employment (CDLE) has established a performance management program designed to increase organizational productivity by clearly defining mission and goals, improving communication, recognizing improved performance and rewarding employees based on their accomplishments. The CDLE Performance Pay System (PPS) Implementation Plan is the department's tool to enable effective performance management processes in our everyday work, and is based on CRS 24-50-104 and other applicable statutes. This plan is administered by the CDLE Office of Human Resources, with oversight and direction by the CDLE PPS Steering Committee.

2. Methodology

a. To ensure employee input the CDLE Management Team established employee action groups in the areas of Planning and Implementation, Dispute Resolution Process, Communications, and Training. The groups built detailed recommendations designed to increase employee acceptance.

b. Appointing Authorities and designated raters are responsible for communicating the department's performance management component to their employees. The Office of Human Resources and the Office of Staff Development teach classes and do consulting to assist the management staff in this function.

c. The Management Team also established a steering committee to monitor the implementation of the plan, oversee the quality of the performance management program and make recommendations on a regular basis. The current steering committee includes Gary Estenson, Deputy Executive Director, Peggy Herbertson Director of the Division of Employment and Training, Glenda Barry, Director of the Office of Human Resources (OHR), Joe Lambert, Chief Information Officer, Wayne Peel, Chief Financial Officer, Shannon Weston, Chief of Staff Development, and Mike Dawson, Human Resources Employee Relations Manager.

3. Timelines and milestones

a. The first step in the performance management process is the development of a strategic plan by the department management team. Updates to this plan, if necessary, will be complete by the end of August each year in conjunction with the budget submission to the Office of State Planning and Budget. Divisions will develop their own business plans based on the department strategic plan. Work units will develop plans

based on their next higher level's plan. By February 1st the unit planning cycle will be completed and individuals/ teams may begin drafting performance plans.

b. There are a number of goals to be accomplished during the development of the individual performance plan. The foremost includes an open communication regarding what is to be completed during the plan year, the priorities for completion and how the work is to be done. The second main goal is that the process will be a learning experience for the employee, supervisor and reviewer. The mutual understanding accomplished by this communication and the focus on objectives/competencies that support the organization mission are crucial to the efficiencies brought about by performance management. The plan is not an end in itself. It is a working document to improve efficiency of operations during the year.

In general terms, the process begins when an experienced employee makes the first draft of the individual performance plan and presents it for approval to the supervisor/ manager (the rater.) This first meeting must occur during March. There may be additional planning sessions but the rater must submit the plan for the reviewer's examination and possible modifications before returning the completed plan to the employee. The reviewer is the direct manager of the rater. Even at this point there may be additional changes. The plan must be implemented by April 1st.

The supervisor/ manager is responsible for the timely completion of these steps. The supervisor/ manager will impose a plan if the subordinate does not complete the plan or timely agreement cannot be reached. Responsibility will fall on the reviewer if the supervisor/ manager fails to meet the deadline. If both these parties fail to produce a plan by May 1st, the reviewer's supervisor is responsible for completing the plan and on up the chain of command until the plan is completed as required by law. Disputes over the plan must be settled during the month of April. Disputed plans will be settled and implemented no later than May 1st. (See "Dispute Resolution Guidelines")

Supervisors will prepare plans for inexperienced employees (as a rule of thumb, this would mean an employee in the job less than three months but circumstances will vary depending on job complexity and prior experience of the employee.)

The statewide performance cycle is April 1 through March 31. A minimum of one documented in-progress review must be conducted during the plan year, preferably at the half-way mark, during the month of October. The Office of Human Resources recommends plan progress and the possibility of needed changes be reviewed each quarter.

c. Proposed evaluations will be completed by employees/ teams and presented to supervisors no later than March 31st. It is recognized that many plans will be completed before March 31st. and evaluations of those plans should be conducted as soon as practicable. **Supervisors/Managers must consult with reviewers before presenting the final evaluation to their employees.** Appointing authorities must conduct a review process to monitor the quality and consistency of performance ratings within their agency

before final ratings are provided to employees. After final evaluations with employees/ teams are conducted the scores must be submitted to the Office of Human Resources (OHR) by May 1st. If the supervisor/ manager fails to evaluate the plan by May 1st then the reviewer is responsible for completing the evaluation. If neither the supervisor/ manager nor the reviewer does an evaluation by May 15th then the reviewer's supervisor is responsible for completing the evaluation and on up the chain of command until the rating is completed as required by law. If a rating is not given, the overall evaluation is satisfactory until a final rating is completed. Recommendations for Level 3 evaluations are also due to OHR by May 15th. The lack of a plan or rating can be appealed through the Dispute Resolution System. Classified supervisors/ managers who fail to evaluate their employees by July 1 are subject to action under CRS 24-50-104. Personnel Rule 6-5 allows for, absent extraordinary circumstances, failure to plan and evaluate in accordance with the department's established timelines results in a corrective action and ineligibility for a performance salary adjustment. If the individual performance plan or evaluation is not completed within 30 days of the corrective action, the designated rater shall be disciplinarily suspended in increments of one workday following the pre-disciplinary meeting.

d. Prior to the payment of annual achievement pay adjustments, the state Director of Personnel will specify and publish a percentage for base and non-base achievement pay according to available statewide funding. CDLE has not established any quota or forced distribution process for determining the number of ratings in any of the three performance levels.

e. The Department will report required information (e.g. distribution of ratings, distribution of performance salary adjustments, number of disputes) to the Division of Human Resources by a date specified by DPA.

4. **Performance Pay ***

* Note: this information is provided for historical background. The state has moved to a new Achievement Pay process in April, 2007 that replaces the former performance pay methodology.

a. CDLE Method of Allocation

All employees in equivalent circumstances will receive equivalent pay treatment. As a result there will be no special allocation of funds among divisions except as necessary to balance monies received through program funding from State and Federal sources. All appropriated monies will be distributed.

Job rate and old maximum were eliminated as of July 1, 2001. Traditional maximum became the new maximum and continues to be the limit on base salary in a grade. The 5-year rate was retained for fiscal year 01-02 but was never used in calculating a performance management payout.

Pay Grade Previous to 7/01/01

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Min.                    Job Rate              5-yr. Rate      Trad. Max.          Max.
+-----------------------+-----------------+-------------------+-----------------+
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Pay Grade on 7/1/01

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Min.                                  5-yr. Rate              Max.
    +-------------------------------------------+--------------------+
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Pay Grade on 7/1/02

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Min.                                                                  Max.
    +-------------------------------------------------------------+
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Pay between the minimum and the maximum is base pay. The change in pay grade structure affects salary calculations because the maximum is the comparison point in determining the type of movement and salary limitations. For example, the limit on base salary for hires, upward and lateral movements will be the maximum of the range. The maximums of the current and new pay grades will determine whether a movement is upward, downward, or lateral. The limit on saving current base salary for non-disciplinary and disciplinary demotions is the maximum of the new pay grade.

Anniversary increases ceased as of June 30, 2002. Performance salary adjustments began with the July, 2002 pay period. Until that time, eligible employees continued to receive anniversary increases for one last fiscal year (FY 01-02).

Employees hired on, or after, July 1, 2001, do not have anniversary dates for pay purposes. This includes former employees who were rehired during fiscal year 01-02. Employees as of 7/1/01 retained anniversary dates for one more fiscal year and then current provisions continued to apply, e.g., adjustments for leave-without-pay.

b. Achievement Pay Eligibility and Distribution
Employees receiving a final overall rating other than Level 1/needs improvement are eligible to receive base-building achievement pay up to the maximum of the pay range. If a person worked here less than three months, the highest rating that person could achieve would be a Level 2. The reason is that there is just not enough time to give that person a competitive rating. Employees must have a final performance review and final rating, and be employed in the state personnel system on July 1 to be eligible for payment of performance salary adjustments (achievement pay). Employees who received a performance evaluation in another department before transferring into CDLE will have that evaluation used in the computation of their PPS score and receive performance salary adjustments under the provisions of the CDLE plan.

For employees whose current salary is within the pay range, the achievement pay will be base building, that is, will be added to the employee's base pay. Base building increases are permanent increases and continue as part of the employees' pay from the effective date forward.

If salary is at the maximum of the pay range (or in saved pay above the maximum) and overall performance is Level 2, the employee is not eligible for achievement pay. An employee whose current salary is at the maximum of the range and overall performance is Level 3 (outstanding), will be granted non-base building achievement pay. Non-base building achievement pay awards are paid in a single lump sum payment in the July payroll. Further information about one-time lump sum awards is covered in paragraph 4.d.

An employee granted an achievement pay adjustment will not be denied the adjustment because of a corrective or disciplinary action issued for an incident after the close of the previous performance cycle.

c. Rating Procedures

Within an individual or team plan the rating scale for each objective is: "1" indicates failure to meet the objective or competency; "2" indicates meeting the objective or competency; and "3" indicates exceeding the objective or competency. The ratings of each objective/ competency are then weighted according to their importance to achieve a maximum possible point total of three hundred. A score of one hundred ninety-nine or less indicates the employee "needs improvement" (not eligible for a performance salary adjustment.) Point totals for Level 2 ("Satisfactory") will be 200 to 300. Selection of Level 3 ("Outstanding") will be done by the department Management Team. There are no quotas or forced distribution processes for determining the number or percentages of employees in any of the three performance levels.

In accordance with Personnel Rule 6-4 (G), three ratings levels instead of four will be used effective for the performance cycle beginning April 1, 2007. The definition of the former level 4 rating will now apply to the level 3 rating definition. The definitions of the former levels 2 and 3 have been combined to create the new level 2 rating definition. The level 1 rating definition is unchanged. The standard definitions will be as follows:

Definition of Level 3

This rating represents consistently exceptional and documented performance or consistently superior achievement beyond the regular assignment. Employees make exceptional contribution(s) that have a significant and positive impact on the performance of the unit or the organization and may materially advance the mission of the organization. The employee provides a model for excellence and helps others to do their jobs better. Peers, immediate supervision, higher-level management and others can readily recognize such a level of performance.

Definition of Level 2

This rating level encompasses a range of expected performance. It includes employees who are successfully developing in the job, employees who exhibit competency in work behaviors, skills, and assignments, and accomplished performers who consistently exhibit the desired competencies effectively and independently. These employees are meeting all the expectations, standards, requirements, and objectives on their performance plan and, on occasion, exceed them. This is the employee who reliably performs the job assigned and may even have a documented impact beyond the regular assignments and performance objectives that directly supports the mission of the organization.

Definition of Level 1

This rating level encompasses those employees whose performance does not consistently and independently meet expectations set forth in the performance plan as well as those employees whose performance is clearly unsatisfactory and consistently fails to meet requirements and expectations.

Marginal performance requires substantial monitoring to achieve consistent completion of work, and requires more constant, close supervision. Though these employees do not meet expectations, they may be progressing satisfactorily toward a level 2 rating and need to demonstrate improvement in order to satisfy the core expectations of the position.

Level 3, the "Outstanding" level (informally called "Peak Performer") is unique and difficult to achieve because it represents consistently exceptional performance or achievement beyond the regular assignment. CDLE employees will be eligible to be considered for the rating of "Outstanding" by meeting at least one of the following two sets of criteria and being forwarded by their appointing authority for review and approval by the Department Management Team: consistently exceeding performance standards and/or making a significant contribution that is unique or unusual. For purposes of this review the Management Team will be facilitated by a designated Division Director. The intent is for the Executive Director to act as an independent reviewing authority and further enhance equitability in the system. The rating supervisor/ manager will compose a narrative explaining the employee's accomplishment and forwarding it through the work unit management team to the appointing authority. The work unit management team will review the recommended evaluation and narrative to decide if the submission meets the standard of equitability within the work unit. Employees whose performance rating is at or above 275 **may** be recommended for "Level 3" under either set of criteria. Employees whose performance rating is less than 275 may qualify only under criteria b. Supervisors must use these criteria during the planning process to ensure the employee understands what constitutes "Level 3". Under this system there is no arbitrary limit to the number of employees who can achieve the "Level 3" rating. Employees receiving a "needs improvement" rating in any objective or competency are not eligible for nomination to "Level 3."

(a) Consistently exceeding performance standards

Under this criterion, "Level 3" performers consistently exceed standards in their objectives and competencies including the core competencies. This consistent,

exceptional performance is maintained throughout the duration of the rating period. Employees recommended for "Level 3" must consistently exceed performance expectations in at least five of the following ten areas:

1. Taking the initiative to identify and complete unassigned work that contributes to the mission of the organization.
2. Volunteering and achieving success in solving problems and perform work outside their scopes of responsibility.
3. Exerting persistent effort above and beyond what is expected in order to meet business objectives.
4. Trying new solutions with an aggressive, go-getter attitude.
5. Completing work objectives ahead of schedule.
6. Completing work objectives using fewer financial resources, personnel, equipment or other resources than allocated.
7. Putting extra effort into improving work processes and/or exceeding product specifications.
8. Exceeding customer expectations regarding the quality of service provided.
9. Operating as team players by assisting others in accomplishing their work objectives.
10. Exceptionally high production levels within a measurable activity.

Employees with a point total at or above 275 on the Individual Performance Plan will be eligible for consideration for "Level 3" unless, and except for unusual circumstances, the evaluation includes a "needs improvement" rating in any objective or competency. Under this criterion of "Level 3" employees **consistently** perform at this higher level on a project-after project, activity-after activity basis across most objectives and competencies.

(b) <u>Making a significant contribution that is unique or unusual.</u>

Under this criterion of "Level 3" employees make a unique or unusual contribution that **significantly** advances the mission of the organization. The selected employee meets performance expectations in most objectives and competencies but may exceed performance expectations in a single objective or competency during the rating period. This unique or unusual contribution provides a **significant** benefit to the organization. Any supervisor/ manager may submit any employee for consideration as an "Outstanding" under (b) provided the employee is not under a corrective action or performance improvement plan. Supervisors and employees must alert one another whenever a significant contribution is about to commence, is in progress or has occurred. Examples of a unique contribution that may contribute to a rating of "Outstanding" include:

1. Exceptionally high production levels within a measurable activity.
2. Innovation of or improvement to a process that contributes significantly to increased quality, effectiveness or efficiency.
3. Design and implementation of product enhancements that significantly improve the flexibility, safety, or ease of use of that product.
4. Identification and implementation of an important new technology.
5. Exceptional response to an unforeseen event.

A single unique or unusual contribution during a rating period does not necessarily provide sufficient evidence for a "Level 3" rating. Other aspects of the employee's performance are also taken into consideration when determining the final performance. Adequate documentation for a contribution under criterion b. will need to be presented at

the time of review at the rating official level.

d. It is the CDLE policy to distribute 100% of the money allocated for PPS increases. Achievement pay awards below pay range maximum are base building. Awards in excess of pay range maximum will be awarded only to employees attaining a "Level 3" rating and those awards will be one-time non-base building achievement pay awards. Employees attaining a "Level 3" rating may have a base-building award and a one-time non-base building achievement award. Additionally, employees rated as exceptional are eligible to receive any remaining portion of base-building achievement pay that exceeded the pay range maximum as a one-time lump sum payment in the July payroll. Employees will be notified of the amount of their award and if it is base building and/or a one time non-base building award prior to the July pay date. The State Personnel Director will specify a percentage for base and non-base achievement pay according to available statewide funding, effective on the statewide common date of July 1. The employee must be employed on July 1 to receive payment of an adjustment. One-time non-base building achievement awards that are granted will be paid in full, even if the employee terminates employment after July 1. Source of funds, method of funding, and length of state service will not be used as criteria for distinguishing between one-time lump sum awards and base-building achievement pay adjustments.
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e. Fairness in rating
A great deal of work went into devising the performance evaluation system to be as fair and objective as possible. Each rater will have a reviewer with a twofold responsibility. First, at the time the performance plan is designed, the reviewer will analyze it to ensure it supports the agency's and work unit's business plans and the Department's strategic plan. The review must ensure that the objectives and competencies are: measurable, within the influence of the employee, achievable (challenging yet reasonable and based on historical standards of performance) and realistic. The reviewer's second responsibility is to ensure that evaluation standards are applied consistently at the time of the final evaluation. The reviewer will review the evaluation before the rater presents it to the employee. Periodically, the Department Management Team will review the Department's program, unit business plans and individual performance plans for quality, accuracy and consistency. Pay decisions will be based on the evaluations completed by raters and reviewers and within system boundaries. Raters are encouraged to consider multi-source assessment processes, where feasible, for evaluating employees.

f. Non-salary Awards
CDLE encourages the use of the non-salary (non-base cash or non-cash) incentives currently available in the state personnel system and in SPP-0042, Non-Salary Incentives, to supplement salary-based achievement pay.

5. **Performance Management**

a. The CDLE envisions performance management as a process for establishing and

using a shared understanding of objectives and competencies in a participative culture to achieve success for both the organization and the individual. This process develops our "line of sight" or "focus".

The first phase in implementing performance management is goal analysis. We receive our mission and objectives from the state legislature through the Governor's office. These are the things we must do by statute and things we need to do to exist as an organization. We analyze these items to develop an understanding of what we should be doing. Everything else is discarded. We develop a mission statement and a vision statement giving an orientation for the future of our organization with organization values. The mission statement describes ***what*** we are to do. The values statement gives an understanding of ***how*** things are to be done. The Department Steering Committee decided that "Value" has too many definitions. Because our aim is to "establish a shared understanding" we are using this term (value) only in the context of the Department's strategic plan and using the term "competencies" in Division business plans, work unit business plans and individual performance plans to describe key behaviors or ***how*** things are to be done. The last element is to measure progress with critical success factors. There are four basic standards used to measure work: quantity, quality, time and cost. These standards may be restated in terms that align better with our organization vision. Taken together the Department Mission, Vision, Values and Critical Success Factors are referred to as the "Strategic Plan". The Department Strategic Plan gives general guidance and direction. It confirms old courses and sets new ones; it is a leadership document, it leads. The CDLE Strategic Plan is included (Attachment 1).

c. The next step at the division and work unit level is to develop business plans. Division and work unit level business plans document mission, values and objectives expressed in terms of quantity, quality, cost and time (critical success factors); they are management documents, they manage things and people's activities.

d. The final step in the planning phase is development of the individual performance plan (IPP). Employee involvement is encouraged in the writing of the performance plan. The employee will use the Department, Division, and work unit plans and align these with his/her primary job duties and responsibilities and his/her own intimate knowledge of the job to develop an individual performance plan. These documents should be made available to the employee in a timely manner so s/he may successfully complete the IPP. The employee will have a planning session with the supervisor to finalize the plan. There are four sections in the IPP but only the first two are scored. The maximum point total is 300: rated elements are scored with a "1", does not meet standards; "2", (Satisfactory); and "3", (Outstanding). **Total weights must equal 100 (%) for a maximum possible point total of 300.**

The first section of the plan contains statements of objectives to be accomplished during the year measured by the critical success factors of cost (lower cost per unit), time (reduce cycle time), quality (increase customer satisfaction) and quantity (more accessible products.) This section will be weighted in a range from sixty to ninety-five percent. It is not necessary that every task performed by an employee be listed on the IPP. The purpose

of the plan is to give guidance to the employee about what must be done for the unit to achieve its objectives, help set priorities and enable the management staff to determine where an employee fits on the evaluation scale (Level 1, 2, or 3)

The second section is on competencies. Competencies are how the objectives or job will be done and are expressed in terms such as communication, customer service, innovation, valuing diversity, and so on. The Department of Personnel and Administration (DPA) has designated five core competencies that will be included in all individual and team plans and evaluations and cannot be disregarded in the final overall rating for each employee. These competencies are 1) communication 2) interpersonal skills 3) customer service 4) accountability and 5) job knowledge. Employees in the Division of Employment and Training have seven core competencies developed through consultation with a team from the Mountain States Employers Council. These seven core competencies include the 5 statewide core competencies established by DPA. Additional competencies may be included at the discretion of management. This section will be weighted in a range from five to forty percent.

Multi-source assessment processes, where feasible, (for example, surveys, whether formal or informal) should be considered for evaluating employees to increase objectivity in evaluation. The numerical total of the scores given for the objectives and competencies will be the total score for the employee for the rated period. The total score will determine where an employee fits on the evaluation scale.

The score and any included commentary will impact decisions concerning pay, promotions, transfers, assignments, schooling and layoffs.

Supervisors and managers, with the concurrence of their appointing authority, determine the percentage of weight given for objectives and competencies.

The third section deals with personal development. The development plan is not given a numerical rating. This section does not impact pay but will contribute greatly to morale, future performance gains and development of supervisors/ managers for the state government.

The fourth section of the plan allows for documentation of several interim coaching and feedback reviews. These reviews are an opportunity to note progress and arrange for any additional support needed to accomplish the objectives or competencies. Both parties may record comments during interim reviews. There is one mandatory mid-cycle review but more frequent reviews are encouraged. The end-of-cycle review provides separate space for comments by the employee and the rating official.

All employees must receive a written evaluation at least annually. If an employee has been in position for ninety days or more and changes positions during the performance cycle, an interim rating must be completed and forwarded to the new appointing authority and OHR. If an employee has a change in rater during the rated period and the outgoing rater has been in that position for 90 days or more, the outgoing rater must complete an

evaluation. At the end of the rated period all the evaluations will be prorated and totaled for the employee's total score. For example, three months with a rating of 290 (1/4 of 290) = 72.5 and eight months with a rating of 245 (3/4 of 245) = 183.75 are totaled for a score of 256. Employees' performance plans should be reviewed continually because objectives will be completed at different times during the year. Emphasis on measurement that is as objective as possible is critical for the success and credibility of performance management. It results in a year-round management system. The performance plan is intended to be a working document. A planning meeting between the supervisor and the employee must occur at the beginning of the cycle. Each performance plan will be reviewed between the rater and the rated employee a minimum of once during the rating period and documented in the plan. The rated employee as well as the rating official may arrange for additional reviews.

A Level 1 or "Needs Improvement" rating denoting unsatisfactory performance will result, at a minimum, in a performance improvement plan or a corrective action.

Performance plans for supervisors/ managers will have at least one objective or one competency evaluating the effectiveness of their performance management of their employees. All rater's will be evaluated on his or her performance management of employees.

A copy of CDLE's Performance Planning and Review Form is included as Attachment 2.

e. CDLE's Performance Management System will have some significant effects on Department employees:
1) They will be rated more objectively
2) They will have more control over their jobs
3) They will be better informed about what is happening to them and their organization
4) They will have more opportunities and incentives for personal development
5) With more in-depth guidance and job knowledge they will have the tools, encouragement and incentive to make empowered decisions

6. **Dispute Resolution Process.**

Included as Attachment 3.

7. **Training.**

a. The Employee Action Group on Training recommended to the CDLE management team that to give the Performance Management System the best chance of success all employees in the department should be trained in the system. To the greatest extent possible the manager/ supervisor of the employee should conduct the training. This method of training would accomplish three things; the leaders would become experts on

the system, employees would understand and be able to function in the new system and employees would know that performance management has the support of management. Accordingly, CDLE Staff Development trained a cadre of about seventy leaders in performance management planning, tracking and reviewing individual performance. This cadre completed the basic training of the Department in April 1999. Unfortunately, the quality of this training was not consistent. Additional training was conducted by Staff Development. Subsequent individual training for new employees and supervisors in performance management and the dispute resolution process has been designated as mandatory.

b. The Employee Action Group for Training recommended that skills training to support PPS should be given to managers and supervisors. Additional training includes Business Plan Writing, Core Skills for Building Commitment, Conflict Resolution, Facilitating Improved Performance, Negotiation Skills, Problem Solving and Time Management. These courses are being offered on an ongoing basis for new supervisors and supervisors/ managers being assigned to the department.

c. "Update Training" is done for CDLE staff whenever significant changes are made to the Department plan. CDLE Staff Development and the Office of Human Resources will conduct this training. Changes in the Performance Management System and in the Dispute Resolution Process will be explained and employees will have the opportunity to engage in a questions and answers session to clarify their understanding. OHR has conducted training for personnel involved in the Dispute Resolution Process and will repeat this training as necessary.

8. **Summary.**

CDLE has conducted a structured implementation process that involved all elements of the Department and drew upon various resources such as "Best Practices" (DPA website), published works of private consultants, published experiences of large-scale businesses and management literature. We feel we have developed a performance management system that is effective and equitable. This is a dynamic system. We encourage and welcome suggestions and advice for improvement. We have made changes to improve in the past and expect to continue to do so in the future. Our hope and intention is for Colorado to be the benchmark for State government performance throughout the United States of America.

Colorado Department of Labor and Employment
Nomination for Performance Pay System Level 3, Evaluation Year _____

Nominee ___ _____	Rater/ Reviewer _____
Division/ unit _____	Appointing Authority _____
Job Title _____	County Director Signature _____
Current score/ past years _____/_____/_____	Employee ID number _____
Nomination Criteria A _____ B _____	Org number _____
Date of Hire/ in position _____/_____	Please submit a paragraph in the box below giving the reasons for this nomination. Be objective, clear and concise with a minimum of adjectives and adverbs! Specifically address the criteria found in the PPS Planning and Evaluation Form
Attach a copy of the nominee's completed Performance Pay System Evaluation Form.	

Nominating Paragraph:

Submit the completed form through your organization's chain of command to Human Resources.

Colorado Department of Labor and Employment
Nomination for Performance Pay System Level 3, Evaluation Year _____

Nominee ___ _____	Rater/ Reviewer _____
Division/ unit _____	Appointing Authority _____
Job Title _____	County Director Signature _____
Date of Hire/ in position _____/_____	Employee ID number _____
Current score/ past years _____/_____/_____	Org number _____
Attach a copy of the nominee's completed PPS Evaluation Form. In the box below circle the applicable criteria.	Give the reasons for this nomination in the box below. Be objective, clear and concise with a minimum of adjectives and adverbs!

Criteria A: Consistently exceeding performance expectations

Under this criterion, Level 3 performers meet expectations in all areas, including the core competencies and exceed expectations in most of these areas. Employees are not required to meet all ten of these criteria. This level of performance is maintained throughout the duration of the rating period. Examples of performance that may contribute to a rating of "Level 3" are:

1. Taking the initiative to identify and complete unassigned work that contributes to the mission of the organization.
2. Volunteering and achieving success in solving problems and perform work outside their scopes of responsibility.
3. Exerting persistent effort above and beyond what is expected in order to meet business objectives.
4. Trying new solutions with an aggressive, go-getter attitude.
5. Completing work objectives ahead of schedule.
6. Completing work objectives using fewer financial resources, personnel, equipment or other resources than allocated.
7. Putting extra effort into improving work processes and/or exceeding product specifications.
8. Exceeding customer expectations regarding the quality of service provided.
9. Operating as team players by assisting others in accomplishing their work objectives.
10. Exceptionally high production levels within a measurable activity.

Under this criterion of "Peak Performance" employees **"consistently"** perform at this higher level on a project-after project, activity-after activity basis across most of all relevant objectives and competencies. Except for unusual circumstances, employees receiving a "needs improvement" (Level 1) rating in any objective or competency do not receive overall Level 3 ratings.

Nominating Paragraph:

Submit the completed form through your organization's chain of command to Human Resources.

Colorado Department of Labor and Employment
Nomination for Performance Pay System Level 3, Evaluation Year _____

Nominee ___ _____	Rater/ Reviewer _____
Division/ unit _____	Appointing Authority _____
Job Title _____	County Director Signature _____
Date of Hire/ in position _____/_____	Employee ID number _____
Current score/ past years _____/_____/_____	Org number _____
Attach a copy of the nominee's completed PPS Evaluation Form. In the box below circle which of the criteria were met.	Give explanatory reasons for this nomination. Be objective, clear and concise with a minimum of adjectives and adverbs!

Criteria B: Making a significant contribution that is unique or unusual.
Under this Level 3 criterion employees make a unique or unusual contribution that **significantly** advances the mission of the organization. This type of "peak performer" meets performance expectations in most objectives and competencies but may exceed performance expectations in a single objective or competency during the rating period. This unique or unusual contribution provides a **significant** benefit to the organization. Examples of a unique contribution that may contribute to a rating of "peak performer" (Level 4) include:

1. Exceptionally high production levels within a measurable activity.
2. Innovation of or improvement to a process that contributes significantly to increased quality, effectiveness or efficiency.
3. Design and implementation of product enhancements that significantly improve the flexibility, safety, or ease of use of that product.
4. Identification and implementation of an important new technology.
5. Exceptional response to an unforeseen event.

Nominating Paragraph:

Submit the completed form through your organization's chain of command to Human Resources.

COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT

STRATEGIC PLAN FY 2008-2009

1. INTRODUCTION

Today, American business and its workers are facing challenges that were unheard of in the centuries that preceded it. Technology, global competition, mergers, acquisitions and reengineering are once again transforming the way we do business. But amidst all the change, one thing has remained constant: Over and over in our history, when America faced new demands and economic hardships, the nation rallied its huge inner resources and amazed the world.

As the economic downturn of 2003 taught us, however, the future is uncertain — and full of risk. Today, as Colorado rebuilds and strengthens its economy and prepares for the decades ahead, the work of the Colorado Department of Labor and Employment is more critical than ever. This Department is all about helping find the insights and tools that will provide our customers with a real advantage.

We connect job seekers with great jobs. Colorado's strong economic environment is inextricably tied to the quality of its workers. Colorado ranks #1 in the nation for its highly educated workforce.

We've been developing and nurturing that workforce for decades, but in many ways, what we offer today is something of a start-up business venture for us. To better address the needs of all workers, for the first time ever, we are bringing together a comprehensive menu of job training, education, and employment services to our network of Workforce Centers.

We provide an up-to-date and accurate picture of the economy that helps in decision making. For Labor Market Information, the science of understanding the mosaic that is the Colorado economy is an ongoing mission. Economic data collected and analyzed under a number of federally funded programs provide current and projected industry and occupation information. This comprehensive information helps guide the future development of our economy as policy makers, educators, and employers develop their strategies into the next decade.

We assist workers who have been injured on the job. The Division of Workers' Compensation administers the system to provide for quick and efficient delivery of disability and medical benefits to injured workers at a reasonable cost to employers, while minimizing the need for litigation.

We ensure fair labor practices. Workers who have not been paid or have been subjected to unfair labor practices are assisted. We oversee the fair practice of wages and hours by assisting employers in understanding their rights and responsibilities.

We help people who have lost their jobs by providing temporary wage replacement through the Unemployment Insurance program. Unemployment Insurance helps worker's pay bills and contributes to the economic stability of the state.

We protect the workplace — and Colorado communities — with a variety of safety programs. The Division of Oil and Public Safety oversees the use of explosives in the state, ensures that boilers are operating safely and properly, that leaking petroleum storage tanks are remediated quickly and efficiently and that public schools are constructed and maintained in accordance with the Building Code and Fire Safety Code.

We are committed to organizational efficiency. It's not the effort that goes into our work that counts but, rather, the evidence-based *results*. The outcomes need to be measured, not the output. The Department of Labor and Employment is committed to defining the values that are important to our customers and then aligning our services with those values. We maintain a communication with employers, job seekers and other customers to see how our perception of what is working matches the reality. This is a fundamental of improving customer service and improving government operations while reducing the costs.

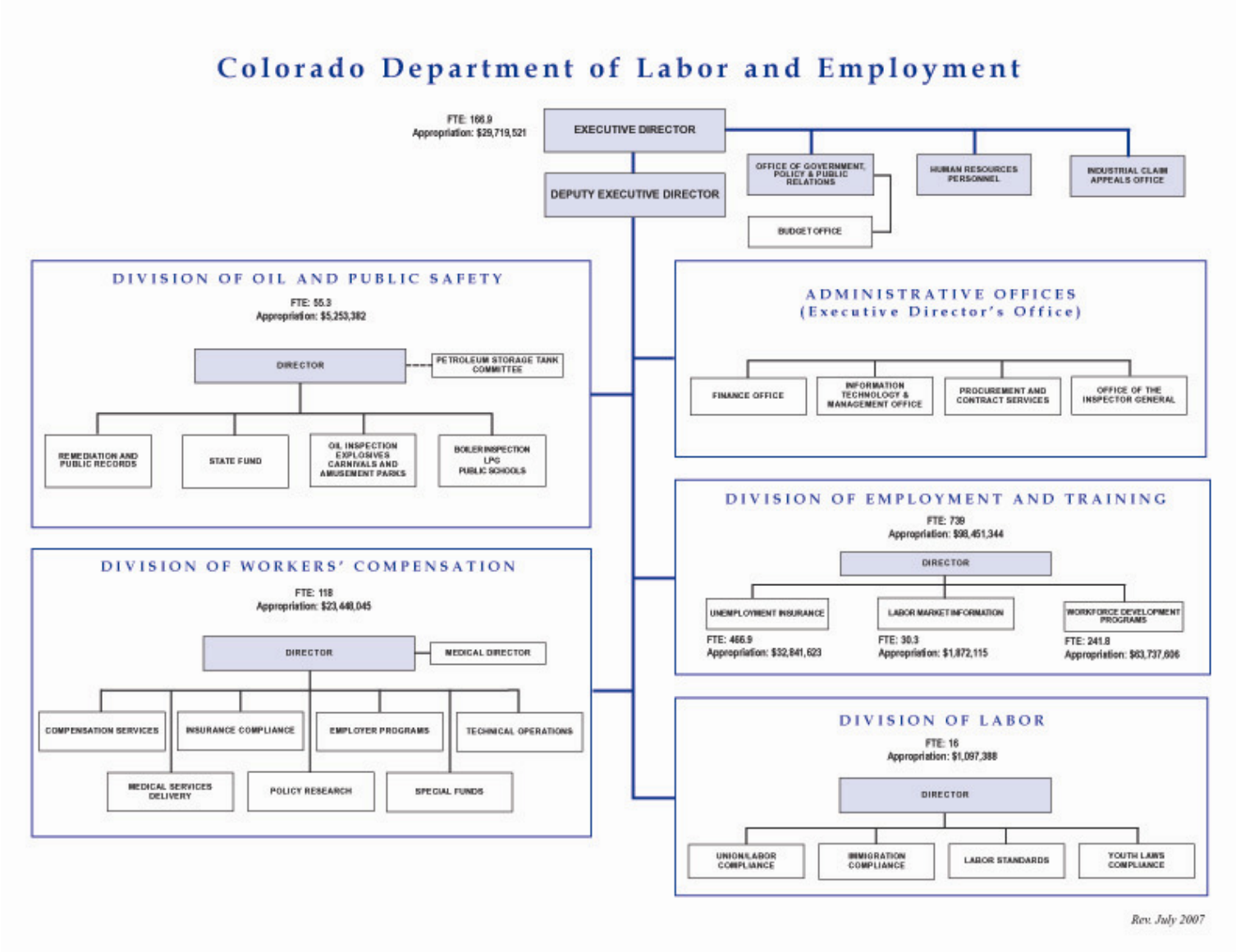
Our commitment to organizational efficiency also includes regularly asking staff at Workforce Centers to share their best practices. We learn what's being tried, what's happening now, what works and what doesn't and then replicate the best practices across the state. The diversity of the Workforce Centers is providing us with a diversity of learning.

Colorado is a great place to live and work. Our low unemployment rate, competitive wages and quality of life have well-positioned the state. And although we saw tough economic times in 2002 into 2004, the state's current economy and its economic outlook rival any across the nation. We have to ensure that continues — and that means never taking our workforce, or the businesses that employ them, for granted.

As the workplace continues to change and new opportunities take the place of older ones that are being left behind, Colorado workers and businesses across the state are providing the intellectual capital, the energy, adaptability and talent that will strengthen our economy and build Colorado into the next century.

The Department of Labor and Employment will be there to help at every step on the road ahead.

ORGANIZATION CHART



2. MISSION AND VISION

OUR MISSION

The Colorado Department of Labor and Employment's mission is to maximize the value of employment, training and workers' compensation services; dispute resolution processes; and public and workplace protections to our customers and stakeholders. Our work, which is customer-oriented and results-driven, fosters economic growth by supporting businesses and workers. Support is provided through job matching resources, economic and labor market information and training opportunities, all of which advance commerce and lead to better wages for Colorado workers and their families.

The department has purview over several significant laws that must be administered for the benefit of citizens of the State. Some of these are as follow:

- Colorado Employment Security Act
- Workers' Compensation Act
- Regulations for Boilers and Petroleum Storage Tanks
- Public Schools Construction Statutes
- Explosives Statue
- Colorado Wage and Labor Peace Acts

OUR VISION

Develop innovative concepts and sponsor policy initiatives that contribute to the building of the 21st Century workforce. Work independently (or as part of an inter-agency team or in conjunction with the Governor's Jobs Cabinet) with local and regional partners, including educational institutions, entrepreneurs, and private benefactors, to create new training programs; implement new web-based tools to offer information more efficiently & effectively about workforce training and certificate programs; ensure that all employees can access job-related IT training by bridging the gap between higher education and workforce training programs; emphasize math & science in applicable publications released by the Department.

OUR VALUES

Customer Service: It's easy to set impersonal service standards such as how many calls are taken every hour. But the real measurement of customer service is less tangible: it's the attitude, the energy and the intelligence that the customer encounters on the other end of the line. At the Department of Labor and Employment, we recognize that great service is a result of relating to customers "one-to-one" and we make customer service everyone's business.

Diversity: We appreciate that when an organization reflects and understands the differences in its customers and in its workforce, when it draws from diverse points of view, approaches and perspectives, it is placed at a clear advantage and positioned for growth and productivity.

Innovation: An organization's ability to make things happen faster and better is based on its willingness to take risks and embrace change. The Department of Labor and Employment will continue to focus on further utilization of technology to provide our services in a more efficient and effective manner.

Integrity: Integrity in our relationships with others and among ourselves is the foundation upon which the Department of Labor and Employment stands. Our customers will trust us to deliver the information and services they care about. Our partners will trust us to work collaboratively. Colorado businesses and taxpayers will trust us to use their tax dollars wisely in serving the State.

Technology: Technology gives us the opportunity to do new things, perform existing processes in new ways and even eliminate those processes which are no longer necessary. The Department of Labor and Employment will accelerate the development and utilization of technology to reduce costs and provide greater levels of information and services.

Partnerships: Establishing and strengthening strategic alliances result in fresh ideas being carried across different communities. The Department recognizes the vital link partnerships play in creating a vision, nurturing it and turning it into reality. Putting good ideas into action requires inventiveness and teamwork, internally across the Department and externally, between sectors of government and in partnerships within the private sector.

3. DEPARTMENT OBJECTIVES

Objective 1. Provide quality, customer-driven employment and training services to job seekers and the business community through timely and accurate payment of Unemployment Insurance benefits, comprehensive labor market data & analysis, and result-driven workforce development

Objective 2. Increase efficiencies throughout the workers' compensation system resulting in cost savings.

Objective 3. Protect the health and safety of the citizens of the State and prevent harm to our environment through inspections and recommendations for remedial actions related to petroleum products & storage tanks, explosives, boilers, and public school buildings

Objective 4. Serve the best interest of employees and employers through the responsible administration and enforcement of labor laws.

4. DEPARTMENT PERFORMANCE MEASURES

Performance Measures		FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimate	FY 08-09 Projected
Ensure that 90% of UI payments processed are accurate and timely.	Target			90%	90%
	Actual	N/A	74%		
Entered Employment Rate	Target	60 %	60 %	61 %	62 %
	Actual	58.91%	60.64%		

Percentage of Claims Successfully Resolved	Target	New	New	70%	70%
	Actual	New	72%		
Minimize the incidences that cause injuries, as identified through violations noted during field inspections: Percent of violations noted during field inspections.	Target	New	New	10%	10%
	Actual	New	11%		
Total amount of incorrect payments detected and corrected	Target	$2,250,000	$2,250,000	$2,250,000	$2,250,000
	Actual	$2,412,541	$2,033,533		

5. COLORADO ECONOMIC TRENDS AND BACKGROUND INFORMATION

LABOR AND WORKFORCE CONDITIONS

The economic climate drives much of what the Department faces. In a strong economy employers need greater assistance locating workers; in a weak economic environment there are a higher number of UI claims and workers need help locating jobs and improving their job skills.

NATIONAL ECONOMIC CONDITIONS

In 2006, the growth rate of real GDP (Gross Domestic Product) was 3.3 percent, a very slight increase from the 2005 rate. Over two-thirds of GDP growth in 2006 derived from personal consumption expenditures (PCE). The domestic investment portion of GDP grew by 4.3 percent in 2006, down from a 5.4 percent growth rate in 2005. Total federal government expenditures grew by 2.1 percent, with the national defense portion of federal spending growing by 1.9 percent. Imports to the U.S. exceeded exports by $618 billion, nearly the same trade deficit as in 2005. However, the U.S. remains a net exporter of services, with exports of services outweighing imports by $90.4 billion.

Through the first half of 2007, GDP growth appears to be decelerating. The final estimate of first quarter GDP growth was 0.7 percent. This represented a sharp decline from the 5.6 percent growth rate posted in the first quarter of 2006. Analysts at the BEA (Bureau of Economic Analysis) attributed slower first quarter growth to a decline in PCE for nondurable goods, a deceleration in exports coupled with an upturn in imports, and a downturn in federal spending.

Total nonfarm payroll jobs increased by 2,471,000 in 2006. This is the third consecutive year showing a net increase, and the 1.8 percent growth rate in 2006 is up slightly from 1.7 percent the previous year. Approximately 85 percent of the job growth in 2006 occurred in the service-providing industries. Professional and business services led all industries in job growth, with a gain of 598,000, followed by education and health services, which registered 466,000 new jobs. Leisure and hospitality also enjoyed a strong expansion adding 327,000 positions.

COLORADO ECONOMIC CONDITIONS

Per capita personal income in Colorado was $39,186 in 2006, increasing by 4.5 percent from 2005. Colorado had the 8th highest per capita income among all States in 2006.

Overall, nonfarm payrolls increased by 52,800 or 2.4 percent in 2006. The gain compared favorably to the gain of 46,400 jobs or 2.1 percent growth in 2005. Services-providing industries continued to dominate job growth in 2006, adding 42,600 positions, compared with 10,200 new hires in goods-producing sectors. Sectors with the largest job gains were professional and business services (+14,800); construction (+7,700); leisure and hospitality (+7,200); education and health services (+6,300); trade, transportation, and utilities (+6,100); and government (+5,100). Natural resources and mining continued to show strong growth, adding 3,600 jobs for 20.9 percent growth rate. Sectors with net job losses were information (-1,400) and manufacturing (-1,100).

Colorado's labor force conditions also improved in 2006. The annual average unemployment rate was 4.3 percent, down from 5.0 percent in 2005. It was the third consecutive year that the average unemployment rate declined. By May 2007, the State's unemployment rate had fallen to 3.6 percent.

We expect that the number of new jobs created in Colorado this year (2007) will be around 43,000 or about 1.9 percent growth while the unemployment rate will be about 3.9 percent.

Colorado's High Demand Occupations

According to the short-term occupational projections produced by analysts in Colorado Labor Market Information, the annual average growth rate for all occupations will be 2.0 percent between 2006 and 2008. Occupational groups that are expected to produce the most jobs are office and administrative support occupations (11,392 new jobs); food preparation and serving related occupations (+10,127); education, training, and library occupations (+9,184); and healthcare practitioner and technical occupations (+8,410). Individual occupations expected to generate the most jobs are retail salesperson, registered nurses, combined food preparation and serving workers, and waiters and waitresses. More detail can be found by opening the web site: http://lmigateway.coworkforce.com and clicking the Occupation link under Analysts and Researchers on the home page.

Colorado Earnings

According to the monthly survey of Colorado businesses, average hourly earnings in 2006 were $20.27 in construction and $16.58 in manufacturing statewide; $17.64 in manufacturing in the Denver-Aurora Metropolitan Statistical Area (MSA).

In the fourth quarter of 2006, the average weekly wage for all employees covered by unemployment insurance was $884, up 5.9 percent from the average weekly wage in the fourth quarter of 2005. Counties with the highest average weekly wages were Denver ($1,069), Broomfield ($1,059), and Boulder and Arapahoe (tied at $1,024) while average weekly wages were lowest in Baca ($416) and San Juan ($420).

6. Colorado Department of Labor and Employment Division Strategic Plans

A. Division of Employment and Training

The Division of Employment and Training consists of three distinct program areas: the Unemployment Insurance (UI) Program; Workforce Development Programs (WDP) and Labor Market Information (LMI).

i. UNEMPLOYMENT INSURANCE (UI) PROGRAM

The UI Program consists of four operating branches and a facilities branch. The four operating branches—UI Operations, UI Integrity, UI Appeals, and UI Staff Services—provide the UI Program's key services to the citizens and employers of Colorado.

UI Operations is the UI Program's largest operating branch providing benefits- and tax-related services and consists of the Customer Contact Center (CCC) and the Technical Services Center (TSC).

When a Colorado worker becomes unemployed, he or she may voluntarily contact the CCC via the Internet or by telephone to inquire about or to file a claim for UI benefits; UI claims are not taken in person. The CCC determines if workers who have lost their jobs through no fault of their own are entitled to UI benefit payments. Payments are made to unemployed workers who meet the conditions of the Colorado Employment Security Act (CESA).

The TSC determines the employer's liability, establishes the employer's account, obtains wage reports from the employers, and collects taxes quarterly. The TSC also supports the functions of the CCC through a group of business analysts who develop or modify automated systems, identify inefficiencies and recommend enhancements to existing systems, monitor production systems, and work with technical teams to troubleshoot problems. Additionally, within the TSC there are several work groups responsible for the maintenance and storage of UI records and documentation, the production of manual warrants, and the assignment of tax-experience ratings for Colorado employers.

UI Integrity consists of Benefits Payment Control (BPC), Benefits Accuracy Measurement (BAM), and Tax Audits. BPC processes UI benefit overpayments, collects payment from claimants who received improperly paid UI benefits, and conducts multiple programs to detect fraudulently claimed UI benefits. BAM reviews randomly selected, sample-claim records each week to assess the accuracy of paid and denied UI claims. BAM reviews are designed to prevent and detect both error and fraud. Tax Audits routinely examines an employer's relevant books and records.

UI Appeals provides a hearing venue for UI Operations and UI Integrity decisions that a claimant or employer can appeal.

UI Staff Services provides quality-assurance services; acts as an activity coordinator when several departments, units, and groups work on a project together; and manages projects. UI Staff Services completes required program reviews, which report the UI Program's performance results to USDOL. Benefits Timeliness and Quality (BTQ) and Tax Performance System (TPS) reviews are federally mandated by USDOL. These reviews are conducted by UI Staff Services, which is independent of and not accountable to the functional area for whom the reviews are conducted.

UI Facilities is responsible for addressing building infrastructure needs at 251 East 12th Avenue, including all interior and exterior maintenance. This team also supports program needs such as staff relocations, equipment and fixture installations, ergonomic furniture adjustments, and the moving of heavy files and materials. The Facilities' staff includes a licensed master electrician; a licensed heating, ventilating, and air-conditioning and plumbing specialist; carpenters; laborers; and custodial staff.

a) Unemployment Insurance Program Objectives

1. Delivering accuracy, timeliness and fairness in its services.
2. Ensuring access to its Internet and telephony applications 24 hours per day, 7 days a week.
3. Displaying professional and courteous service by staff, ensuring honest and ethical behavior.
4. Improve and maximize program performance and efficiencies.
5. Develop a well-defined business methodology.

b) Unemployment Insurance Program Performance Measures

Performance Measures		FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimate	FY 08-09 Projected
Ensure that 90% of the payments processed are accurate and timely.	Target	NA*	NA*	90%	90%
	Actual	74.9%	74%		
Increase Internet usage to result in 50% of the UI Program's workload conducted via electronic means.	Target	NA*	NA*	50%	50%
	Actual	42.1%	41.3%		

*These are newly developed measures; targets were not previously established for state fiscal years 2006 and 2007.

c) Unemployment Insurance Program Workload Indicators

Workload Indicators	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimate	FY 08-09 Projected
Number of Unemployment Insurance Initial Claims	126,647	119,726	119,561	120,074
Number of Appeals Decisions	19,804	18,849	18,823	18,904
Number of New Employer Accounts	24,387	24,827	27,317	28,103
Average duration of a benefits claim in weeks	13.9	13.3	13.5	13.5
Average weekly benefit amount	$304.09	$317.05	$328.15	$339.63

d) Key Trends in Unemployment Insurance

Trust Fund Solvency

CESA 8-76-102 (5)(a) states a solvency tax surcharge (STS) is assessed and added to the standard or computed tax rate when the UI Trust Fund balance on any June 30 is equal to or less than nine-tenths of one percent of the total wages reported by ratable employers for the calendar year or the most recent available four consecutive quarters prior to the last computation date. This surcharge ensures the rapid recovery of trust fund solvency following periods of recession. The STS has been in effect since calendar year 2004 and remains in effect for calendar year 2007.

Funding History

The UI Program receives 85 percent of its funding for administration through a federal grant, 10 percent from the Employment Support Fund (ESF), and the remaining 5 percent from the Unemployment Revenue Fund.

Historically Congress appropriated amounts requested by USDOL that reflected state UI programs' needs fairly accurately. Beginning in the mid-1990s federal-funding policies changed from reflecting state UI programs' costs to limiting the amount of the annual cost increases. This has led to state UI programs not being adequately funded and has forced states to spend state funds to cover the costs associated in administering the UI program. Federal funds continue to decline.

In August 2006 USDOL advised all state UI programs of their intentions to eliminate their current procedure of paying the U.S. Postal Service directly for postage costs incurred by each state program effective October 1, 2007. This means the UI Program will assume responsibility for paying its own postage costs, as well as any mail-management service charges that are currently reimbursed by USDOL. As a result of this change, Colorado will see an additional negative impact to federal funding starting in October 2007.

Information Technology

One of the greatest challenges facing the UI Program is replacing its aging legacy systems which were established more than 20 years ago. In light of the continual decreased funding received from USDOL, the UI Program is in the process of identifying methods in which to conduct business in a more effective and efficient manner without negatively impacting its existing and desired customer-service levels through the use technology. One of the UI Program's focus areas is to incorporate the use of the Internet in as many services as possible. Internet services provide customers with a more convenient alternative to conduct business with the UI Program 24 hours a day, 7 days a week, and to minimize, if not eliminate, customers' frustration with having to do business on paper or through a busy call center.

In the fall of 2007 the UI Program plans to submit a decision item requesting funds to design, develop, and implement additional Internet self-service applications for claimants and employers. If funds are awarded, this effort will allow the UI Program to modernize its current Internet self-service applications; develop, implement, and maintain the functionality of new applications; and integrate these elements into an Internet self-service suite. Over a two-year span, ten Internet self-service applications will be deployed. The resulting Internet suite will require minimal intervention by business staff and provide a viable conduit for claimants and employers to conduct business with the UI Program.

Telephony System

The UI Program was appropriated capital construction funding in FY06-07 to replace its aging telephony system. The Strategic Telephony Operational Recovery Mission (STORM) is an eagerly anticipated project that will deliver a new and improved telephony system to replace the current IVR system and associated telephony products. The Colorado Unemployment Benefits Line (CUBLine) will also be replaced during the STORM project. The new system promises to be user-friendly and reliable and is expected to be fully implemented by June 2008.

Legislation

The UI Program worked with legislators on several new pieces of legislation during the 2007 session. House Bill 07-1285, Timeliness of Unemployment Claims Appeals Receipt, changes the timeliness determination for filings to receipt by the UI Program instead of a postmark date. Additionally, this bill extends the timeline to file an appeal of a decision from 15 days to 20 days and provides that a request for job separation information be received by the UI Program within 12 calendar days

House Bill 07-1286, UI Benefits Interstate Agreement, ensures conformity of state law to existing federal unemployment compensation (UC) law. The bill requires nonresidents who apply for UI benefits under a reciprocal state agreement to produce alternative documentation proving legal residency if the person does not have a valid Colorado driver's license or ID card. The bill allows an applicant to provide a valid driver's license or state ID card issued in another state, or in the case of individuals residing in Canada, a valid Canadian driver's license or ID card, and execute an affidavit as described in the Colorado Revised Statutes 24-76.5-103 (4)(b).

House Bill 07-1312, Employee-Leasing Company and Work-Site Employer, clarifies existing law establishing the business, regulatory, and legal arrangement between a work-site employer and an employee-leasing company.

ii. WORKFORCE DEVELOPMENT PROGRAMS (WDP)

Workforce Development Programs, administered by the Colorado Department of Labor and Employment (CDLE), provides a wide range of employment services for businesses and job seekers, delivered through a network of workforce centers located throughout the State. Programs administered by WDP are federal and cash funded. State cash sources include the Displaced Homemaker and the Employment Support Funds. The State is responsible for policy guidance, program oversight and administration, and overall programmatic and fiscal integrity in accordance with federal guidelines for each program. For all Federal funded programs, priority of services must be provided to veterans according to the law.

WDP administer several programs and include the following:

- Wagner Peyser (WP) Act of 1933 - Employment Services program provides non-fee labor exchange services to businesses and applicants, matching job applicants with appropriate job openings.

- Workforce Investment Act (WIA) of 1998 - Serves eligible adults and youth who need additional employment services, education, and/or training to prepare them to enter the workforce or to reenter the workforce after a job loss.

- Veterans Employment and Training Program - Established under Title 38, U.S.C., Chapters 41 and 42, provides services to veterans and ensures that public labor exchange

standards and priorities of services are being met and that businesses/employers are aware of veteran program requirements and are encouraged to hire veterans.

- Migrant Seasonal Farm Workers (MSFWs) Program - Established to ensure that migrant and seasonal farm workers receive the same employment services as non-MSFW customers.

- Work Opportunity Tax Credit (WOTC) - Businesses/employers apply to the WOTC program requesting tax credit certification. Under the Tax Relief and Health Care Act of 2006 and the Small Business and Work Opportunity Tax Act of 2007, businesses/employers can apply for tax credits in exchange for hiring workers from certain classifications of disadvantaged workers.

- Governor's Summer Job Hunt (GSJH) - Each year this program provides youth ages sixteen through twenty-one with job placement services and employment opportunities. Services are provided to youth regardless of geographic boundaries, income, ethnicity, or special needs.

- Trade Adjustment Assistance (TAA) - This program is a collaborative effort of CDLE, the One-Stop Regions, and the US Department of Labor to provide services to workers whose loss of employment is determined to be the adverse result of foreign trade. The Trade Readjustment Allowance Program provides an extension of Unemployment Insurance (UI) payments to qualified trade-affected workers. The Alternative Trade Adjustment Assistance Program provides supplemental salary payments to a worker for two years or until the worker has received $10,000 or until the worker is estimated to earn $50,000 in a year. The Health Coverage Tax Credit (HCTC) Program assists individuals in receiving a tax credit for Health Insurance premiums from the Internal Revenue Service (IRS) and provides relief from the increased cost to continue health insurance.

- Foreign Labor Certification - Provides for the initial processing of H-2B (temporary non-agricultural) and H-1B prevailing wages to assist businesses/employers in recruiting U.S. workers, and gather information to determine whether to grant or deny temporary labor certification.

- Displaced Homemaker Act of 1977 and 1980 - Provides employment and training services to eligible displaced homemakers who, through divorce, separation, widowhood, or ineligibility for other public assistance have lost their source of economic support. Services provided include tuition scholarships, job training, career assessment, supportive services, personal and vocational counseling, and job development and placement.

a) Workforce Development Programs Objectives

1. Provide training, technical assistance and program monitoring to the workforce regions to ensure that the State meets Federal performance measures for all of its programs serving adults, dislocated workers and youth.
2. Develop strategies to address the needs of high growth industries, to enhance incumbent worker training, to coordinate services in collaboration with the Colorado Community College System and the Adult Education and Family Literacy Programs, and to expand labor exchange opportunities for businesses.
3. Use special projects and discretionary grant funds to support the local workforce system's capacity to be market-driven, responsive to local economic needs, and to contribute to the economic well-being of the local community.

b) Workforce Development Programs Performance Measures

Performance Measures		FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimated	FY 08-09 Projected
Entered Employment Rate	Target	60 %	60 %	61 %	62 %
	Actual	58.91%	**60.64%**	N/A %	N/A %
Employers Served	Target	21,500	22,000	22,500	23,000
	Actual	21,964	**22,319**	N/A	N/A

To measure progress in meeting WDP objectives, the following measures are used:

1. *Entered employment rate*: This is the United States Department of Labor "Entered Employment" measure (from the Federal Common Measures) used to evaluate the Employment Services program. Almost all applicants/customers served are enrolled in this program and then referred to other programs as needed for other services. The entered employment rate is derived from Unemployment Insurance wage records to determine whether an applicant/customer was working in the quarter after completing or receiving Workforce Center services.

2. *Employers served*: Number of employers provided a service by a Workforce Center or through another component of Workforce Development Programs.

Demand for services from WDP is highly dependent on the unemployment rate and the impact of demand for services moves in opposing directions for applicants and employers. When the unemployment rate is high, there is an increase in demand for employment services from applicants to aid in their job search, and obtain training to improve their ability to meet employer needs, either in their current or new career field. Additionally, the demand for services from employers drops, because they have little difficulty finding qualified workers. When the unemployment rate is low, there is an increase in demand for employment services to connect the employer with qualified candidates for job placement, or to help create qualified candidates through training. Conversely, there is a drop off in demand for services from applicants because there is less difficulty in finding employment.

Because of this shift in demand and in order to best serve our customers, WDP must shift the focus between two main customer groups from year to year depending on the economy. This can result in significant changes in the performance measures below and cause the actual to vary significantly from the benchmark rate/number, though a change downward in one measure should cause an improvement in the other measure.

c) Workforce Development Programs Workload Indicators

The following represents the State's actual and projected number of customers, i.e., applicants and employers served.

Workload Indicators		FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimated	FY 08-09 Projected
Total applicants	Target	350,000	350,000	350,000	350,000
	Actual	356,953	**351,576**	N/A	N/A
Total applicants referred to jobs	Target	155,000	155,000	155,000	155,000
	Actual	159,670	**156,740**	N/A	N/A
Total job openings received from employers	Target	104,000	105,000	110,000	115,000
	Actual	104,638	**112,058**	N/A	N/A

Specific Program Workload Indicators - Applicants Served

Workload Indicator: Total Applicants Served	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimated	FY 08-09 Projected
Workforce Investment Act	10,728	8,934	8,500	8,500
Wagner Peyser	336,380	318,964	310,000	310,000
Veterans	36,903	33,700	34,000	35,000
Migrant Seasonal Farm Workers	595	639	500	500
Work Opportunity Tax Credit	16,929	20,434	23,000**	24,000**
Governor's Summer Job Hunt	43,429	33,902	30,000	32,000
Trade Adjustment Assistance	1,118	1,599	1,880	2,210
Trade Readjustment Allowance (TRA)	800	850	900**	900**
Alien Labor Certification	648	727	750**	750**
Displaced Homemaker	59	68	70	75

**Workload indicators fluctuate depending on the number of applications processed, petitions certified by the USDOL, and legislation that is passed at the Federal and State levels. The outcome of the WIA Reauthorization and Federal funding levels may drastically change the workload numbers for this program.

Specific Program Workload Indicators - Employers Served

Workload Indicator: Total Employers Served	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimated	FY 08-09 Projected
Wagner Peyser services	18,891	18,721	19,000	19,000
WOTC - Number of Employers Registered with the Tax Credit Office	2,425	2,957	3,200	3,200
Alien Labor Certification	648	727	750	750

d) Key Trends in Workforce Development Programs

Colorado's internet-based services continue to increase accessibility to the State's workforce programs. The website, *www.coworkforce.com*, provides access to labor exchange services between businesses and job seekers and allows customers to connect with workforce centers for career development and job training services. The internet portal, *www.e-Colorado.org*, for the workforce development community continues to expand its services and improve its functionality. Implementing datacasting technology and webinar/conferencing functions will further enhance the department's ability to provide long distance, real-time training to staff and customers statewide.

Federal Funding

Federal funding for the Workforce Investment Act (WIA) and Wagner Peyser (WP) programs have decreased annually since FY2005-06. In FY2006-07, Wagner Peyser funding which has remained flat for years, decreased by 4.30%. This has constrained the workforce regions in providing basic employment services and caused a restructuring of regional offices to stretch resources. In FY2007-08 WIA funding decreased by $5.8 million cutting into the allocations for all workforce regions and thereby limiting the delivery of intensive and training services statewide.

WIA Reauthorization
The Reauthorization of the Workforce Investment Act/Wagner Peyser Act has been debated since 2002 and if ratified, the proposed implementation date is July 1, 2008. Several proposals for reauthorizing WIA/WP have been circulated and presented in Congress during the last several legislative sessions. Most of these proposals suggest a major restructuring of the program which could result in additional budget cuts in the future. It is unclear whether WIA/WP will be reauthorized and/or extended beyond June 30, 2008, or whether an entirely new workforce program will be in place. However, it is probable that a reauthorization could bring major changes to WDP and the State's workforce system.

Healthcare Industry
CDLE continues to address the labor shortage in the healthcare industry with the support of WIA and Wagner Peyser discretionary funds. The "Work Education and Lifelong Learning Simulation Center" (WELLS Center), a collaborative healthcare training center located at the Fitzsimons Campus of the University of Colorado at Denver and Health Sciences Center is moving forward to develop and implement a plan for sustainability beyond FY2008-09. The WELLS Center has been crucial in providing additional clinical training courses, experience for new nursing students, and nursing professionals with the ability to upgrade their credentials. The Clinical Scholar Program, which trains nursing professionals in how to supervise nursing students in a clinical setting, has been an extraordinary success, surpassing the original anticipated numbers of 45 participants and training 240 participants in the first eighteen months of the project. The WELLS Center has been crucial in developing the state's capacity to train nursing professionals in high volume.

The labor shortage in the Long Term Care industry has become a priority issue in Colorado. WDP staff is currently developing strategies to address the supply/demand challenges and the training needs of this high-growth industry, and are taking steps in FY2008-2009 to launch preliminary solutions.

Energy Industry
The Rocky Mountain region has been known as the "energy capital of the West", with Colorado and New Mexico ranking as first among U.S. fields for both gas reserves and gas production. As the center of the Rocky Mountain region, the metropolitan Denver area continues to attract energy-related companies and research institutions. In 2004, Metro Denver ranked third out of the fifty largest metro areas for energy industry cluster employment concentration.

Energy development in Colorado is rapidly changing the labor landscape in Western Colorado and the Denver Metro region. The state is poised to enter into another energy boom and have seen challenges in addressing the labor market needs in this industry. Currently, there is a high demand for skilled workers in this industry. As energy development proceeds in the years ahead, Workforce Development Programs will be challenged to collaborate with economic development advocates, education leaders, and the business community to design educational programs and productive partnerships to address both the short and long term workforce needs emerging from the energy industry, and labor needs ranging from the large production corporations to the small business owners that contribute to a thriving energy-based economy.

Veterans Employment and Training Programs
Although the total number of veterans registering for Employment and Training services has not significantly changed in the last several years, the number of Disabled, Recently

Separated, Homeless and Incarcerated veterans released from prison has increased. These groups of veterans require a greater degree of staff assisted and intensive services than other veterans. With the continued conflict in Iraq and Afghanistan, there will be a significant increase in veteran customers suffering from Traumatic Brain Injuries (TBI) and Post Traumatic Stress Disorder (PTSD) requiring additional intensive assistance to successfully reenter the civilian workforce. Additionally, as a result of recent Base Realignment and Closure (BRAC) actions, approximately 10,000 troops are anticipated to be transferred to Fort Carson in Colorado Springs by 2010. This will significantly increase the need for employment and training assistance for military spouses and military dependents.

Meanwhile, the Local Veterans Employment Representatives (LVER) and Disabled Veterans Outreach Program (DVOP) did not see any increase in funding during FY2007-2008. Personnel, benefits, and operating costs are increasing at the same time Federal funding remains flat. Staffing levels will need to be reevaluated in FY2008-09. A reduction in staff will present challenges over the next three to five years in order to meet the increased need for specialized veterans' services as described above.

Technology

- Colorado's Work Opportunity Tax Credit (WOTC) implemented a web-based application system in FY2006-2007 which has enhanced the processing of Tax Credit applications, reduced the need for scanning documents, and provided quicker response time to participating employers of Colorado. As a result, the workload for this program has shown a steady increase over the last three years and is anticipated to continue increasing through FY2008-09 although there has not been a commensurate increase in Federal funding.
- In FY2007-2008, the installation of datacasting equipment throughout the workforce system will be completed. Datacasting technology can send large media rich files, live broadcasts, reports, speeches, workshops and training, and on-line courses to individual computers and network servers using digitalized data. The implementation of this technology will allow Colorado to provide more efficient delivery of training to staff and customers across the state, thus reducing logistical challenges and travel costs to attend professional development workshops.
- In FY2007-2008, CDLE anticipates making progress to complete the automation of the Trade Readjustment Allowance and Alternative Trade Adjustment Assistance tracking and payment systems which is expected to significantly improve caseload management and customer service to both workforce center staff and TRA/ATAA recipients. Expanding the functionality of the Joblink computer system to produce and track TRA/ATAA payments along with the implementation of a new file scanning system, will assist in transforming a manual process into a streamlined automated payment process. Additionally, the implementation of using a debit card instead of manual checks will allow customers to receive their payments quicker and result in cost savings because printing costs and processing manual checks will be eliminated.

Employer demand for services: As Colorado has transitioned to a demand-driven approach in delivering workforce development programs, more businesses and employers have become aware of the services offered through the workforce investment system. Recently, businesses have expressed a need for assistance in finding educational and training opportunities, conducting work readiness assessments of applicants, and organizing staff development/career fairs and job fairs. Businesses are looking for partnership opportunities to leverage funding and to assist them in fulfilling their labor exchange needs. Colorado is working on strategies to establish a fee-for-service program that can better serve the business community in addressing those needs. In high growth

industries, businesses are utilizing the workforce center system to coordinate education and training programs to increase the pool of skilled applicants that can be hired on demand. As a result of Colorado's growing economy, workforce development programs anticipate growth in its employer customers and are working on streamlining its services through statewide initiatives.

iii. LABOR MARKET INFORMATION

Labor Market Information (LMI) serves policy makers, the workforce development system, educators, employers, jobseekers and the general public by gathering, producing, analyzing and disseminating comprehensive information on employment conditions in Colorado. All programs are federally funded.

BUREAU OF LABOR STATISTICS ACTIVITIES
Funding is provided by the Bureau of Labor Statistics for data collection, editing and statistical production and basic publishing activities only for five separate programs:

Quarterly Census of Employment and Wages (QCEW) builds on administrative records submitted by employers in compliance with the Colorado Employment Security Act. Employment level of and wages paid to covered workers are edited for accuracy, new establishments are provided a code under the North American Industry Classification System according to type of work and existing establishments are routinely surveyed to ensure industry codes are accurate. QCEW data are the foundation for all other programs and activities within LMI.

Local Area Unemployment Statistics (LAUS) provides monthly estimates of labor force, total employment, unemployed persons and rate of unemployment at the county level and statewide. Statistics from this program are used in many federal programs' funding formulas to determine Colorado's share of federal dollars.

Current Employment Statistics (CES) are the most current, reliable estimates of wage and salary jobs by industry available and are produced monthly for the state and all seven Metropolitan Statistical Areas. CES estimates are considered to be the foremost indicator of the state's economic condition and those produced at the national level move the financial markets.

Occupational Employment Statistics (OES) covers the same geographic areas as the CES program plus four balance-of-state areas. Employment level and hourly and annual wage estimates by occupation and industry are produced annually. Estimates from this program are merged with industry projections to predict demand occupations into the future.

Mass Layoff Statistics (MLS) program records and tracks layoff events occurring in Colorado through the use of unemployment claims data. A mass layoff event occurs when at least 50 people from a firm file a first-time or initial claim for unemployment insurance during any consecutive five-week period with the workers being separated for more than 30 days. State level data are published quarterly.

WORKFORCE DEVELOPMENT SUPPORT ACTIVITIES
Employment and Training Administration funds support LMI through several grants. Direct funding is provided via the Workforce Information Core Products and Services grant and the state allocates a small portion of Workforce Investment Act and Wagner/Peyser 10% funds.

Activities covered by these funds include additional data development, basic services to the general public and customized services to the workforce development system:

Short and long-term industry and occupation projections, published annually, form the basis of LMI's most popular products and services. These estimates, available for the state and all seven MSAs, are used to guide training investment, economic development, strategic planning and policy decisions for programs of all types.

Local Employment Dynamics estimates are produced quarterly in cooperation with the Census Bureau. Data elements include job creation, new hires, separations, turnover and average new hire earnings by age group, gender, detailed industry and down to the county level of geography.

Internal Customer Satisfaction Surveys for Workforce Development Programs and Unemployment Insurance provide a means of measuring the effectiveness of these organizations services from the perspective of the clients. Phone surveys are conducted monthly and semi-annually. Clients include both the unemployed seeking jobs and employers seeking to fill vacant positions.
Training and outreach increases the awareness, access, understanding and use of LMI products and services. The education of a wide spectrum of LMI users including workforce system staff, state and local government, economic development, educators and business organizations expands the audience and application of LMI beyond the needs of the federal government.

Customized data requests, analysis, products and presentations enable LMI to focus on specific data sets of interest to various groups. The expertise and knowledge of LMI staff responsible for gathering and analyzing data is utilized. This unique perspective is of particular value to end users.

Database maintenance and web presence insures the availability of LMI at a level appropriate for public consumption. This enables all programs to meet federal reporting requirements while providing local end users readily available data.

UNEMPLOYMENT INSURANCE ACTIVITIES
The Unemployment Insurance Program funds positions in LMI for industry coding activities to determine establishment tax rates, actuarial and financial monitoring and analysis of the State's UI Trust Fund, and fiscal analysis of proposed legislation impacting the UI system. Additionally, LMI is responsible for preparing weekly, monthly, quarterly, and annual federally mandated reports related to Colorado's UI program.

a) Labor Market Information Objectives

1. Maintain compliance with all contracts and grant requirements by meeting deadlines with high-quality deliverables delivered to the Bureau of Labor Statistics, Employment and Training Administration and other customers.
2. Increase the visibility of currently available Colorado economic data, information and analysis for use by the public.
3. Develop comprehensive training curriculum, modules and tools.
4. Instill a sense of worth and pride in every employee with knowledge of how their work in LMI impacts customers' every day lives; enhance a collaborative, fulfilling work environment for LMI staff.

b) Labor Market Information Workload Indicators

Workload Indicators	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimate	FY 08-09 Projected
Establishments on QCEW data file:	207,759	212,827	216,000	220,000
New establishments classified by industry:	25,100	24,100	25,000	25,000
Establishments verified for proper classification:	43,863	31,710	25,000	26,000
LMI Gateway website hits:	88,577	103,456	125,000	140,000
Products distributed:	7,282	12,737	35,000	70,000
Training sessions and presentations:	15	30	45	60

c) Key Trends in Labor Market Information

General

Over the last few years, the U. S Department of Labor has recognized that for both employers and job seekers to make informed decisions, appropriate, meaningful regional and local information must be made available to the public. Colorado Labor Market Information, along with other state LMI sections across the country, has been at the forefront of reinventing itself in order to provide timely, localized information on which important decisions can be made.

The initial emphasis of the expanded effort has been a focus on supporting the workforce development system to better serve job seekers. This is currently being accomplished through developing and conducting training activities to enhance understanding and application of LMI by workforce system staff. These activities are further supported by recent LMI web delivery upgrades. The goal of these upgrades is to provide improved data accessibility and flexibility to meet a wide spectrum of user needs.

Funding History

Bureau of Labor Statistics programs are funded from the Labor Force Statistics line item in the BLS budget. The FY 2008 request is for $253.584 million. Historically, about 33% of this line item funds the cooperative programs with states.

The BLS request represents a 2.6% increase in the Labor Force line item over the 2007 rescission level. The Unemployment Insurance Trust Fund (UTF) accounts for $78.264 million of the FY 2008 request. The UTF increase is 1.6% over FY 2007. However, BLS funding to states in FY 2007 was 3% below the FY 2003 level.

The Employment and Training Administration's workforce information core products grant is funded from the "One-Stop Career Centers/Labor Market Information" line item. ETA requested $55.985 million for FY 2008 to provide workforce information, national electronic tools, and one-stop system building under the Wagner-Peyser Act. The line item has been cut significantly in the past several years.

The amount provided to states from the line item held at $38.0 million until rescissions lowered the amount slightly in PY 2005. Total funding to states in PY 2007 is 16% below the PY 2005 level. ETA is proposing another 12.3% cut to this funding in PY 2008.

While BLS and ETA are cutting funding, business costs of producing LMI have increased. According to the Employment Cost Index produced by BLS, salaries and benefits in state and local government have increased by 17.6% since 2003, with benefit costs rising faster than wages.

These cuts to this information lifeline threaten the ability for states to target talent development, promote innovation and respond effectively in other ways to the challenges of the global economy.

The Division of Employment and Training is considering supplementing LMI activities from the Employment Support Fund for the first time in its history due to federal cuts.

FUTURE PROJECTS

Occupational Safety and Health
LMI has entered into discussions with the BLS regarding the possibility of bringing the Occupational Safety and Health (OSH) statistics program to Colorado beginning October 1, 2008. Colorado is currently only 1 of 7 states for which occupational injury and illness data are not being collected. Unlike other BLS programs, funding for OSH is split 50/50 between the state and BLS. A state funding mechanism needs to be established to allow for the long-term consistent operation of the program. Program costs are expected to be quite modest relative to benefits, on the order of $100,000 annually.

These data will be useful for many purposes. Because no such data are now being collected for the State, there is no way to approximate productivity losses suffered by Colorado businesses due to workplace injury. The information will permit the development of comparative injury incidence rates to national industry averages as well as between Colorado industries. Injury severity could be imputed from the days of lost work and job restriction categories.

Benefits
A pilot survey program is underway to measure benefits provided by private sector employers. This program will provide a basis for tracking trends in medical, dental, vision, life and disability insurance, sick, annual, and holiday leave provided to full-time and part-time employees.

The data collected will allow comparison of benefits by industry as well as private versus public sector information, which is already available. The results will be useful to business, government, policy makers and job seekers.

Research
Leading LMI shops across the nation have in-house research capabilities to leverage full access to confidential data. Comprehensive research is critical to the development of sound policy. The current leadership in LMI has set a goal to establish this capability in Colorado by June 30, 2008.

B. Division of Labor

The Division of Labor administers Colorado labor laws pertaining to wages paid, hours worked, minimum wage, labor standards, child labor, employment-related immigration laws, and working conditions. The Division of Labor also conducts all-union agreement elections, elections to certify or decertify collective bargaining agreements, certifications of all-union provisions in the building and construction trades industries, and investigates and mediates allegations of unfair labor practices.

It is the mission of the Colorado Division of Labor to aid Colorado employees, employers, and the general public through the responsible administration, regulation, and enforcement of Colorado labor laws.

The Division aspires to:

- Continually improve Division administrative, operating, communication, and technological systems.
- Ensure fairness, expedience, and professionalism in our dispute resolution processes and interactions with the public.
- Empower Division staff to collaborate with others, pursue creative solutions, and participate in ongoing educational programs to provide the highest level of customer service.
- Forge strategic alliances and partner with organizations, businesses, and state, local, and federal agencies to increase the effectiveness of Division educational and outreach efforts.

i. Division of Labor Objectives

1. The Division of Labor provides assistance to employers and employees in understanding and complying with Colorado's labor laws through our program of "Compliance through Education."
2. To respond to written inquiries from the public and successfully resolve wage disputes in a timely fashion.

ii. Division of Labor Performance Measures

Performance Measures		FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimate	FY 08-09 Projected
Issue New Wage Order	Target	N/A	06/07	01/08	
	Actual		04/07		
Issue Advisory Bulletins	Target	06/06	06/07	01/08	
	Actual	03/06	01/07		
Claims Processed	Target	7,000	7,500	7,500	7,500

	Actual	7,410	7,401		
Percentage of Claims Successfully Resolved	Target	New	New	70%	70%
	Actual	New	72%		

Division of Labor staff responds to a high volume of inquiries from various customers wanting information about labor laws. Our program of "Compliance through Education" helps all of our customers come to understand their rights and their responsibilities. Increased contact with employees and employers through (1) group presentations, (2) comprehensive website content and services, and (3) the provision of written materials to the public enable us to demonstrate the efficacy of "Compliance through Education."

The updates made to the Division of Labor's claim and investigatory processes and database (*eCOMP*) are an essential component of service improvement. More efficient use of our resources is possible as our expanded data capability has allowed us to use a risk-based service delivery approach. The system provides staff the ability for quick response to customer complaints and inquiries. Tracking potential problem areas has allowed the Division to tailor employer education to minimize inadvertent noncompliance. This system has eliminated the duplication of claims, identified differences in types of claims, identified changes in business names or addresses, provided data for changes in the Minimum Wage Order and statutory changes, and provided information essential to the development of strategic goals and plans.

iii. Division of Labor Workload Indicators

Workload Indicators		FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimate	FY 08-09 Projected
Claims successfully resolved	Target	3,000	4,000	5,000	5,000
	Actual	5,002	5,515[1]		
Monies recovered	Target	$2,000,000	$1,750,000	$1,750,000	$1,750,000
	Actual	$1,522,485	$1,350,000		
Employee group presentations and visits (visits / number in attendance)	Target	45/1,200	45/1,200	45/1,200	45/1,200
	Actual	26/623	35/1,500		
External investigations	Target	10	50	50	50
	Actual	75	43		
Walk-in traffic	Target	2,000	2,000	2,000	2,000
	Actual	1,614	2,016		
Claims per FTE	Target	700	900	900	900
	Actual	988	1,057[2]		
Dollars recovered per FTE	Target	$217,000	$217,000	$217,000	$217,000
	Actual	$202,998	$192,857		
Dollars recovered per claimant	Target	$325	$225	$225	$225
	Actual	$205	$182[3]		
Estimated taxes recovered (State & Federal)	Target	$460,000	$460,000	$460,000	$460,000
	Actual	$380,621	$337,500		
Collective Bargaining Elections	Target	5	5	5	5
	Actual	0	0		
All-Union Agreement Elections	Target	5	5	5	5
	Actual	2	5		
Unfair Labor practices Charges	Target	5	5	20[4]	5
	Actual	3	0		
Employment Verification Claims	Target	N/A	New Law		

Workload Indicators		FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimate	FY 08-09 Projected
	Actual		35[5]		
Public Contracts for Services Claims	Target	N/A	New Law		
	Actual		8[5]		

[1] The unsuccessful claims include many types of claims, such as employers filing for bankruptcy, claims that do not fall under the Division's jurisdiction, claims past the statute of limitations, and disputes best handled by the judicial system due to complexity or by the preference of the parties involved.
[2] Claims per FTE have risen due to an increase in claims and staff turnover
[3] Dollars recovered per claimant have decreased due to a substantial increase in non-wage claims.
[4] The periodic jump in ULPs is due to the cycle of negotiations for RTD. The actual number of ULPs in FY 03-04 was 32.
[5] Each claim reflects an investigation of a single business entity regardless of the number of complaints received (e.g., one franchise had several formal complaints filed. This one investigation required examining the personnel records and payroll timesheets of three separate locations and seventy-five individuals)

iv. Key Trends in the Division of Labor

Substantial Increase in Division Claim Workload and Success of Technological Advances
The Division received 7,401 claims and written inquiries in FY 06-07, which represents a similar total as compared to the 7410 claims received in FY 05-06. However, the 7401 claims represent a 40% increase over the 5,313 claims and written inquiries received in FY 03-04. This 40% claim increase can be attributed to new online claim services, e-mail services, and educational outreach offered by the Division. Approximately 75% of the written inquiries received by the Division now arrive via either the website or e-mail. This utilization of popular technology has improved access and ease of use to Division services. All traditional methods of claim filing are still readily available to the public (e.g., mail, walk-in, fax).

Advisory Bulletins and Resource Guide Published by Thomson West
The Division of Labor has maintained and updated its "Advisory Bulletin and Resource Guide," which is a comprehensive guide to Colorado labor and employment laws and Division services. The Guide was published by Thomson West in 2005, 2006, and 2007. It can be purchased under the title, "Colorado Employment Law and Practice Handbook" by John Paddock Jr. It is part of the Colorado Law Practice Series.

Contact and Outreach with the Spanish-Speaking Community
The Division of Labor has three Compliance Officers who are fluent in Spanish (one bilingual employee was added in FY 06-07). This has greatly enhanced our services to the ever-increasing number of Spanish-speaking clients. Continued collaboration with the Archdiocese of Denver and other local and state organizations has further improved the Division's visibility and assistance among the Spanish-speaking community. This collaboration has resulted in a higher demand for information and services.

Minimum Wage Increase and Wage Orders
In January of 2007, the Division issued an Emergency Minimum Wage Order in accordance with changes to the Colorado Constitution, Article XVIII, Section 15 (per Amendment 42). In April of 2007, the Division issued a permanent minimum wage rule, Wage Order Number 23. The Division has been actively preparing for Wage Order 24 (effective January 1, 2008), and increasing its educational efforts surrounding subsequent minimum wage increases pursuant to the inflation adjustment present in the law.

All Union Agreement Elections
During the fiscal year 06-07, the Division of Labor, received 8 requests for All Union Agreement (AUA) elections. As of June 30, 2007 The Division conducted five elections. One petition had been withdrawn and two elections were carried into FY 07-08. All of the elections which have been held this FY have been won by the unions.

Notice of Intent to Strike
In November 2006 a Notice of Intent to Strike was submitted by members of the Pueblo Education Association against Pueblo School District Number 60. The notice was related to the inability of the two sides to reach a new contract agreement. Colorado Revised Statute 8-1-125 requires that either both parties request our intervention, or the executive director of the department determines that such an action affects the public safety. Only the PEA requested such action on our part. This office worked informally with both parties and the Federal Mediation Conciliatory Services office to successfully avoid a strike. The parties reached an agreement on a two year contract on December 7, 2006.

Potential FY 07-08 Activities
Contract negotiations with the Denver Public Schools and the Denver Classroom Teachers Association have hit an impasse related to wages. We are working informally with representatives of the Federal Mediation and Conciliatory Services agency that has been asked to assist. They are awaiting the results of an independent fact finder and hope to have the matter resolved prior to the beginning of the school year.

Employment Verification Law
Effective January 1, 2007, virtually all Colorado employers must abide by a new employment verification law, 8-2-122 C.R.S. The Division assumed responsibility in late February of 2007 over this law, and has prepared extensive guidance and provided assistance to employers and employees. The Division crafted a comprehensive website specifically for this law, accessible at www.coworkforce.com/lab/evr.

Public Contracts for Services and Illegal Aliens
Effective August 7, 2006, contractors who enter into or renew public contracts for services with a state agency or political subdivision must abide by a new law, 8-17.5-101 & 102, C.R.S. The Division assumed responsibility in late February of 2007 over this law, and has prepared extensive guidance and provided assistance to employers and employees. The Division crafted a comprehensive website specifically for this law, accessible at www.coworkforce.com/lab/pcs.

Criminal Prosecution of Wage Violations
The Division has been actively working with Colorado District Attorneys to criminally prosecute employers for violations of the Colorado Wage Act. The Division has received approval and support from the Attorney General's Office to work directly with District Attorneys on such prosecutions.

C. Division of Oil and Public Safety

The Division of Oil and Public Safety (OPS) is responsible for a variety of regulatory functions related to public health and safety, including establishing and enforcing rules, regulations, and statutes, which govern public school construction, carnival and amusement park rides, explosives, boilers, underground and aboveground petroleum storage tanks, cleanup of oil spills, and reimbursement of cleanup costs to qualifying storage tank owners/operators and accomplishes this through its registration, inspection, regulation, and reimbursement process.

The Division of Oil and Public Safety is comprised of the following sections:

- Public Safety
  - Boilers
  - Explosives

- Carnivals and Amusement Parks
- Petroleum Inspection
- Remediation
- Petroleum Storage Tank (State) Fund
- Public Schools

The Boiler Inspection Section includes boilers and pressure vessels. A boiler is generally defined as a closed pressure vessel in which water is heated and circulated for heating or power. Boilers and pressure vessels are located in most public buildings such as schools, churches, hotels, restaurants, health clubs, nursing homes, and office buildings Boiler inspections are performed by nine state inspectors and by special (insurance company) inspectors commissioned by the state program. This program coordinates the efforts of state and insurance company special inspectors, verifying compliance with the established safety requirements with regard to the installation, operation and closure of boilers and some pressure vessels.

The Explosives section regulates individuals or businesses that use, manufacture, possess, sell, store, transport, or dispose of explosives or blasting agents. This section is responsible for conducting testing of potential explosive permitees performing inspections and reviews, and processing all explosive applications. The program ensures that explosives used for road construction, avalanche control, oil exploration and other demolition purposes are stored safely away from populated areas and secured in locked storage facilities where inventory controls are in place to guard against theft. The explosives section does not regulate military explosives, law enforcement agencies mining, agricultural, or fireworks.

The Carnivals and Amusement Parks Section protects the public through a registration process and enforcement of regulations related to carnivals and amusement parks. The section ensures that the amusement devices for all carnivals and amusement parks that operate in the state meet inspection requirements for safety. All carnivals and amusement parks also must maintain insurance coverage appropriate to the type of ride and provide proof of a current insurance policy.

The Petroleum Inspection Program within OPS enforces standards governing - the registration, installation, operations and closure of underground and aboveground storage tanks containing petroleum and other regulated materials; enforces weights and measures regulations pertaining to petroleum products, including the calibration of fuel pumps, and testing petroleum products to verify compliance with state quality standards; and responds to emergency situations involving petroleum releases.

The Remediation Section enforces cleanup standards governing the remediation of petroleum contamination and petroleum releases. The Remediation Section ensures petroleum impacted sites progress from release discovery through closure; meets all review turn around times (TAT) and enforcement deadlines; protects funding sources necessary to ensure the continuation of remediation at petroleum storage tank sites; provides accurate and timely guidance and technical assistance to internal and external customers; and evaluates section processes and modify as necessary to enhance the program.

In addition, the Remediation Section manages the State Lead & LUST Trust programs. Leaking Underground Storage Tank (LUST) Trust Funds are federal grants used to cover remediation costs at sites where the owner/operator responsible for the contamination cannot be identified or located; is unwilling to clean up the contamination; or is financially unable to cover the cost. The Petroleum Storage Tank (State) Fund monies can also be utilized for this purpose.

The Petroleum Storage Tank (State) Fund Program receives and processes applications to the Petroleum Storage Tank Fund for reimbursement of costs related to assessment and cleanup of

petroleum contaminated sites. Initially, sites are evaluated for eligibility to the Fund based on their compliance history. Any station operated in "substantial non-compliance" with OPS tank operating regulations may not be eligible. The results of these evaluations are presented monthly to the Petroleum Storage Tank Committee where eligibility decisions are made. Following the committee decision, supplemental applications are processed as they are received by the Fund Section staff.

The Public Schools section oversees the construction of public school projects for all K-12 and junior (community) colleges statewide. The Division is responsible for adopting building code standards, reviewing and approving building construction plans, issuing building permits, inspecting the schools throughout the construction phase to ensure the schools have been designed and built in compliance and issues certificates of occupancy. Public school construction projects include new schools, additions, remodels, and freestanding structures.

i. Division of Oil and Public Safety Objectives

1. Protect Health and Safety of Workers, Students, and Citizens
2. Protect the Environment
3. Protect Consumers

ii. Division of Oil and Public Safety Performance Measures

Performance Measures		FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimate	FY 08-09 Projected
Minimize the incidences that cause injuries, as identified through violations noted during field inspections: Percent of violations noted during field inspections.	Target	New	New	10%	10%
	Actual	New	11%		
Minimize the incidences that cause injuries, as identified through violations noted during remediation and construction plan reviews, and permit and certification submittal reviews: Percent of violations noted during plan reviews, and permit and certification submittal reviews.	Target	New	New	25%	25%
	Actual	New	47%		
Minimize the incidences of what cause injuries through proper allocation of resources with appropriate qualifications and training as identified through issues noted during internal quality control checks: Percent of issues noted during internal quality control checks	Target	New	New	50%	10%
	Actual	New	71%		
Minimize the number of petroleum releases that impact points of exposure: Percent of petroleum releases that impact points of exposure.	Target	New	New		
	Actual	New	New		
Minimize the amount of product sold that is metered inaccurately and out-of-compliance with quality standards: Percent of product quality and meter violations	Target	New	97%	97%	97%
	Actual	New	96.5%		

iii. Division of Oil and Public Safety Workload Indicators

Attachment 1 to CDLE PPS Implementation Plan

Workload Indicators	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimate	FY 08-09 Projected
Number of required Public School inspections per fiscal year (**This is a new workload measure and will be determined during the analysis described below under Public School Construction program)	N/A	N/A	**	
Number of boilers requiring inspection	29,226	24,912	27,000	29,000
Percent of boiler inspections performed by certificate expiration date	64%	64%	75%	80%
Percent of boiler violations corrected by deadline.	58%	71%	75%	80%
Number of explosive magazine inspections required	57	75	85	85
Number of Carnivals and Amusement Parks inspected	n/a	n/a	20	30
Number of petroleum facilities	2,300	2,307	2,400	2,400
Number of LPG facilities	1,800	1,849	1,900	1,900
Percent of retail petroleum facilities inspected each year to ensure 18 month inspection frequency goal is achieved	63%	66%	67%	67%
Number of Public School projects and plans per fiscal year	269	350	350	375
Number of preliminary meetings with architects concerning Public Schools	201	262	262	281
Explosives exams conducted	170	278	250	250
Percent of blasters who pass the explosives exam on their initial attempt.				
Explosives permits processed and issued	477	456	500	500
Percent of daily amusement ride inspection reports reviewed for compliance	n/a	n/a	20	30
Number of confirmed petroleum releases reported	225	190	200	200
Number of open events	NA	1205	1200	1200
Number of Site Characterization Reports received	NA	164	175	175
Number of Corrective Action Plans received	314	402	250	200
Determine most effective way to perform Public School plan reviews and inspections considering use of state personnel, contractors, and/or local jurisdictions	N/A	N/A	Decision by 8/1/07	N/A
Draft appropriate language for Public School legislation, if required	N/A	N/A	Decision by 8/15/07	N/A
Propose emergency supplemental FY 2008 funding for Public School	N/A	N/A	Decision by 8/15/07	N/A
Re-review and re-inspect the 150 Public School sites that were inspected after January 2006 (as well as the 8 additional sites in the audit)	N/A	N/A	100%	N/A
Percent of Public School plan reviews that receive management quality control reviews	N/A	N/A	100%	100%
Determine qualifications of new Conveyance manager, hire by October 2007	N/A	N/A	Hire by 10/1/07	N/A
Average turnaround time for petroleum product sample analysis	20 days	17 days	10 days	10 days
Percent of boiler initial inspections on new installations performed within 30 days of installation	50%	56%	75%	80%

Percentage of Site Characterization Reports reviewed and NFA, CAP request or Final SCR letter issued within 60 working days.	87%	76%	90%	90%
Percentage of Corrective Action Plans reviewed and a CAP Approval or CAP Denial letter issued within 90 working days	83%	90%	90%	90%
Processing time of traditional original reimbursement applications with a Fund Payment Report prepared within 90 working days (as dictated by statute)	72 days	87 days	85 days	85 days
Processing time of electronic reimbursement applications (eRAPs) (all supplementals) with a Fund Payment Report prepared within 90 working days (as dictated by statute)	72 days	66 days	65 days	60 days
Leak/spill/special investigations	263	146	150	150
Tank Installations/Upgrades	279	296	325	350
Tank Closures	192	164	190	190
Percent of facilities in operational compliance with regulations	75%	75%	95%	95%
Number of petroleum impacted sites receiving a No Further Action status	214	273	225	225
Establish risk-based approach for report submittal deadlines and criteria for extension requests	N/A	N/A	Draft document 3/31/08	Final implemente d 10/1/08
Develop and provide guidance documents and support to our customers including aboveground tank closure guidance document and revised corrective action plan	N/A	N/A	3/31/08	N/A
Consumer Complaints	412	423	450	450
Percentage of fuel meters within tolerance limits	96%	97%	98%	98%
Percentage of product samples in compliance with specifications, ensuring fuel quality and consumer protection	89%	90%	95%	95%
Percentage of consumer complaint investigations completed within 5 working days	95%	94%	98%	98%

iv. Key Trends in Oil and Public Safety

Current Extenuating Circumstance

Public School Construction Program Audit

A recent audit identified 10 specific recommendations regarding the Public School Construction Program with which the Division agrees. The recommendations include staffing and training of qualified people, proper plan reviews, adequate inspections, and an analysis to identify improvements to the program and required resources. The entire purpose of the performance measure for Public School Construction is to implement each of these recommendations.

Management and operational deficiencies in the past that were identified by the program and have been corrected include management review of permits, use of proper inspection forms and permit identifications. The task at hand is to determine the best way to implement the other improvements to the program and the options under consideration are:

- Total administration completed by the state with increased number of employees.

- Extensive delegation of the program to local jurisdictions.
- Utilizing state contractors to perform many of the plan reviews and inspections.

The final solution is anticipated to be a combination of these concepts. Input is being received from stakeholders and members of the legislature. The goal is to finalize these decisions by 8/1/07. After that the necessary actions such as drafting legislation, requesting emergency funding, and hiring of employees will be implemented.

Public School Inspection Section:

Growth and Development
With the recent voter approval of school bonds by various districts it is anticipated that the demand for school construction permits and certificates of occupancy and inspections will increase rather than decrease in the next few years.

School Security Issues
Based on recent tragic incidents in school settings in Colorado and across the nation, new code requirements may be developed by the International Code Council regarding design criteria to enhance security of schools. Public School Safety staff may need additional training to become familiar with the criteria and best methods to review and implement any code changes.

Public Safety Section:

Mechanical Conveyances
On May 30, 2007 Governor Ritter signed SB07-123 which created the Elevator and Escalator Certification Act. The legislation requires that all mechanical conveyances be registered with the Division of Oil and Public Safety by August 1, 2008. Additionally mechanics, inspectors and contractors who service mechanical conveyances must be licensed by the Division. The legislation establishes the regulation and inspection of conveyances such as moving walkways, escalators, elevators and dumbwaiters. Certain devices are exempted from the legislation and the statute allows for delegation of inspections to local jurisdictions. During FY 07-08 the program will be developed by hiring staff, forming stakeholder group, establishing he registration process, negotiating with local jurisdiction and promulgating rules. The remainder of the program will be implemented on August 1, 2008. Once the program has been developed and before implementation, performance measures and workload indicators will be developed.

Oil and Gas Exploration
As Colorado continues to be a leader in oil and gas exploration, the use of explosives will also continue to increase. The current surge in exploration has a large economical impact to the adjacent communities, primarily those located on the western slope. The growth in population of our state has forced cities to expand, encroaching on the more rural areas where most of the blasting occurs. This has created conflicts between populations near the blasting sites and the oil exploration industry.

Alternative Amusements
We are experiencing growth in a segment of the amusement industry that does not fall within the traditional definition of amusement parks: challenge courses such as zip-lines and climbing walls; and simulated extreme sports such as sky diving. Further analysis of these types of attractions is necessary to determine what role the Public Safety Program will take in the regulation of these types of attractions and extreme sports in the future. Under current legislation, these facilities do not fall within Public Safety's jurisdiction.

Building Development
Population growth and the associated building developments continue to impact the boiler industry in that the sheer number of boilers in the state is increasing by approximately 2,000 per year. We are seeing most of this growth in copper-tube boilers which are safer, require less water to operate, have a faster heat recovery time resulting in increased efficiency, and are less expensive when compared to the traditional cast iron boilers. During FY 06-07 we implemented a risk-based inspection schedule. This allows for lower risk boilers to be inspected on a 24-month cycle rather than a 12-month has reduced the number of boilers required to be inspected every year.

Petroleum Inspection Section:

Federal Energy Act
On August 8, 2005, President Bush signed the Energy Policy Act of 2005. Title XV, Subtitle B of this act (entitled the Underground Storage Tank Compliance Act of 2005) contains amendments to Subtitle I of the Solid Waste Disposal Act, the original legislation that created the underground storage tank (UST) program. This new law significantly affects federal and state underground storage tank programs, will require major changes to the programs, and is aimed at reducing underground storage tank releases to our environment.

The UST provisions of the Energy Policy Act focus on preventing releases. Among other things, it expands eligible uses of the Leaking Underground Storage Tank (LUST) Trust Fund, and includes provisions regarding inspections, operator training, delivery prohibition, secondary containment and financial responsibility, and cleanup of releases that contain oxygenated fuel additives.

Some of these provisions require implementation in 2006; others will require implementation in subsequent years. To implement the new law, EPA and states will work closely with tribes, other federal agencies, tank owners and operators, and other stakeholders to bring about the mandated changes affecting underground storage tank facilities.

Senate Bill 07-031 introduced in this legislative session with support from stakeholders gives the Division the authority to promulgate and enforce rules to allow implementation of the provisions of the federal Energy Policy Act of 2005. These regulations will be developed this year with stakeholder participation and should be effective in 2008.

Alternative and Renewable Fuels
With the increased demand and use of petroleum, and the need for cleaner fuels there is an increasing trend in development and use of alternative and renewable fuels. Today there is a wide array of alternative fuel sources that are finding their way into the marketplace. New standards for the safe storage and product quality of these fuels are being developed.

House Bill 07-031 introduced in this legislative session concerning renewable energy requires the division to establish policies regarding the storage of renewable fuels. The bill also requires the Division to promulgate, and enforce, rules concerning the placement of underground and aboveground storage tanks that contain renewable fuels by April 30, 2008. The purpose of the rules is to develop a uniform statewide standard of issuing permits for underground and aboveground storage tanks to promote the use of renewable fuels so that the process of obtaining a permit for an aboveground storage tank that contains renewable fuels may be more efficient and affordable.

Fuel Quality
With the wide array of alternative fuel sources that are finding their way into the marketplace, new specifications for product quality of these fuels are being developed by American Society of Testing Materials (ASTM). In order to fulfill its statutory obligations and ensure continued consumer protection as new ASTM standards are developed, the division will have to promulgate and update rules to address the new specifications and may have to purchase or upgrade equipment at the laboratory to conduct these tests.

For example, in June 2004, EPA finalized the Highway Diesel and Non-road Diesel Rules, which mandated the use of lower sulfur fuels in diesel engines beginning in 2006 for highway diesel fuel, and 2007 for non-road diesel fuel. After EPA finalized the Highway Diesel and Non-road Diesel Rules, ASTM adopted the EPA requirement on ultra low sulfur diesel (ULSD) in their D-975 Standard Specification for Diesel Fuel Oils.

Temperature Compensation
National Institute Standards and Technology standards define a gallon of gasoline as being 231 cubic inches at 60 degrees Fahrenheit. When this gallon of diesel or gasoline fuel is delivered, stored and dispensed at temperatures higher than 60 degrees, it expands. At 60-degrees, a gallon of fuel delivers a certain amount of energy or BTUs. The hotter the fuel, the less energy in the gallon and the lower mileage per gallon. Almost all retail motor fuel dispensers within the United States do not compensate for temperature of the fuel during retail transactions. With the increasing price of fuels there is an increasing amount of discussion and debate as to whether retail motor fuel dispensers should compensate for temperature during the retail transaction. It is anticipated that NIST will likely require temperature compensation at retail motor fuel dispensers in the near future. This will require the division to purchase calibration equipment that have temperature compensation capabilities.

Remediation Section:

Update of Reasonable Cost Guidelines
In response to inflationary pressures, OPS plans to update the Reasonable Cost Guidelines (RCG). These are the maximum costs allowable to be reimbursed from the Fund for selected costs associated with site assessment and cleanup (eg; excavation, laboratory analytical, labor, equipment, etc.). These costs were last updated in 2002. OPS plans to evaluate each existing RCG in comparison to current costs, and add additional RCGs for items suggested by the Auditor's.

Federal Energy Act
Contained in the Federal Energy act is the directive not to pursue cost recovery from responsible parties if the recovery will cause them undo financial hardship. Currently the remediation section leads the effort to obtain cost recovery. This provision may hinder this effort.

Alternative Fuels
With the event of various new alternative fuels, Remediation Section staff will now need to educate themselves regarding potential releases of these fuels and their unique chemical components. The staff needs to be aware of the unique properties of these components, and appropriate methods of assessment cleanup.

Petroleum Storage Tank Fund Section:

Federal Energy Act

The Energy Policy Act of 2005 contains several provisions that may impact the Petroleum Storage Tank Fund over the next fiscal year. One of these provisions relates to Fund Soundness and efforts by EPA to monitor the solvency of State Funds in order to maintain their approval to function as the Financial Responsibility mechanism for tank owner/operators in the State. This will require the State Fund Managers to submit annual or semi-annual reports of various financial data to EPA. Ultimately, a State Fund's approval could be withdrawn if the Fund is not financial sound.

A second provision is that State Funds can now be used to provide incentives to tank owner/operators to comply with the Energy Act, particularly with regard to release prevention efforts and upgrades. OPS acted on this provision with the passage of Senate Bill 07-247 that allows the Fund to be used to provide incentives for upgrades. During fiscal year 2008, OPS anticipates developing the program to provide for these incentives.

D. Division of Workers Compensation

The statutory mission of the Division of Workers' Compensation (DoWC) is to administer and enforce the provisions of the Workers' Compensation Act. The objective of the Workers' Compensation Act, and thus the Division, is to assure the quick and efficient delivery of disability and medical benefits to injured workers at a reasonable cost to employers, with a minimum of litigation.

The DoWC is made up of a number of diverse programs. The operations of the DoWC generally fall into the categories of dealing with claims, insurance, or medical issues. The Special Funds Unit, consisting of the Major Medical Fund, the Subsequent Injury Fund, and the Medical Disaster Fund, operates like an insurance company and actually pays out benefits. These Funds are closed to new injuries and pay out to certain individuals who met the statutory criteria when the Funds were open. Otherwise, the DoWC's role is one of oversight and it does not pay benefits.

Certain workplace injuries must be reported to the DoWC as claims. The DoWC strives to ensure these claims are properly filed, and then works with insurers to make sure that injured workers receive the benefits they are entitled to receive. Insurers are also audited and graded on how well they follow requirements regarding the handling of claims. In addition, the Division mediates disputes and assists parties with settling their claims. The DoWC has a voluntary safety program for employers to reduce the number of accidents for those employers participating. While reducing the number of workplace accidents is a goal of the DoWC, it has a limited ability to directly affect this measure.

The DoWC also administers the self-insurance program whereby qualified employers may self-insure their workers' compensation liability. If not self-insured an employer with employees is required to carry private workers' compensation insurance. The Division strives to enforce this requirement and is constantly investigating employers and fining, or even closing down, those who are violating the law. The DoWC goal is to have 100% of employers in compliance however, as employers constantly go into and out of business, change their name and change whether they have employees, it would take an enormous amount of resources to approach that goal, or even to confidently measure the number of uninsured employers.

The DoWC provides a number of services, as required by statute, relating to medical care for injured workers. The DoWC trains and accredits physicians to perform certain functions in the workers' compensation system. It also operates the Divisions Independent Medical Examination

process, which in many instances must be completed before parties can go to a hearing. In addition, the DoWC adopts a medical fee schedule each year that establishes payment levels for all medical services provided to injured workers. The DoWC also promulgates and updates Medical Treatment Guidelines to set out optimum medical treatment for injured workers and reduce disputes over medical treatment.

i. Division of Workers Compensation Objectives

1. Increase efficiencies throughout the workers' compensation system resulting in cost savings.
2. Enforce the provisions of the Workers' Compensation Act to assure the quick and efficient delivery of disability and medical benefits to injured workers.
3. Reduce the number of claims filed that are determined to be uninsured.

ii. Division of Workers Compensation Performance Measures

Performance Measures		FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimate	FY 08-09 Projected
Premium Cost Containment Program accident cost reduction	Target	$12,000,000	$12,000,000	$12,000,000	$12,000,000
	Actual	$16,869,049	$19,335,800		
Percent savings per year using fee schedule	Target	20%	20%	20%	20%
	Actual	28%[3]	38%[4]		
Total amount of incorrect payments detected and corrected	Target	$2,250,000	$2,250,000	$2,250,000	$2,250,000
	Actual	$2,412,541	$2,033,533		
Number of on-site audits	Target	40[5]	24[6]	24[7]	24[8]
	Actual	23[3]	23[3]		
Percent of claims filed that are determined to be uninsured	Target	New Measure	New Measure	New Measure	New Measure
	Actual	.36%	.33%		
Number of establishments investigated	Target	New Measure	New Measure	New Measure	New Measure
	Actual	800	1,308		
Number of establishments ordered to pay fines	Target	New Measure	New Measure	New Measure	New Measure
	Actual	180	274		

[3] Bills are reviewed to determine if charges exceed those allowed by the Division's fee schedule. This year's figures are from a third party bill review company and two Workers' Compensation insurers. The total billed medical charges from approximately 921,000 bills were $411,706,900 and the reductions were $115,538,300

[4] Bills are reviewed to determine if charges exceed those allowed by the Division's fee schedule. This year's figures are from a third party bill review company and two Workers' Compensation insurers. The total billed medical charges from approximately 760,959 bills were $389,147,892 and the reductions were $146,633,134.

[5] The number of future audits will be affected by the additional complex analyses required and testing and transition to a new web-based audit program, and the new risk-based audit approach.

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The division contributes to system efficiencies through involvement in various stages of claim development. From the outset to closure, claim actions required to be reported to the division are reviewed for expedience. Through services such as prehearing conferences, the oversight of settlements, and the mediation of claims issues and medical billing disagreements, the division facilitates resolution of disputes without the parties having to go to hearing. Effective system administration by the division also provides savings to stakeholders through the use of technology such as electronic data interchange, and web-based resources.

Efficient management by division units of other statutory programs provide continuous savings for specific stakeholders. Some examples include the division independent medical examination program, the self-insurance program, physicians accreditation, and the Major Medical and Subsequent Injury Insurance programs.

iii. Division of Workers Compensation Workload Indicators

Workload Indicators		FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimate	FY 08-09 Projected
Number of customer contact with the Customer Service Unit (total of next two bullets)	Target	70,500	70,400	70,400	70,400
	Actual	58,630	56,467		
Via telephone calls	Target	65,000	65,000	65,000	65,000
	Actual	51,541	50,217		
Via Walk-ins	Target	5,400	5,400	5,400	5,400
	Actual	7,089	6,250		
Reduce caller telephone wait time in Customer Service as measured in seconds	Target	20	20	20	20
	Actual	19	18		
Reduce the percentage of lost calls	Target	3%	3%	3%	3%
	Actual	4%	4%		
Number of Independent Medical Exam (IME) applications processed	Target	3,300	3,300	3,300	3,300
	Actual	3,292	3,150		
Number of IMEs held (by Workers' Compensation number, not event)	Target	2,800	2,800	2,800	2,800
	Actual	2,715	2,558		
Percentage of workers' compensation cases with IME applications (calendar year 2005) that requested hearings through June 2006	Target	35%	35%	35%	35%
	Actual	50%	47%		
Number of Applications for Indigent Determination (for purpose of IME Program) filed with Office of Administrative Courts[9]	Target	580	600	600	600
	Actual	622	578		
Number of Applications for Indigent Determination where the claimant was determined to be indigent	Target	350	375	375	375
	Actual	397	359		
Number of Utilization Reviews (UR) processed	Target	15	15	15	15
	Actual	6	14		
Percentage of UR orders upheld	Target	95%	95%	95%	95%
	Actual	100%	100%		
Number of injury reports filed by employers and claimants	Target	41,000	41,000	41,000	41,000
	Actual	38,233	40,608		
Number of Reviews of Admissions of Liability for benefits	Target	50,000	50,000	50,000	50,000
	Actual	51,807	68,514		
Orders related to requests for administrative closure of claims	Target	700	650	650	650
	Actual	568	708		
Orders related to requests for penalties or	Target	60	70	70	70

[9] The data regarding indigent applications is provided by the Office of Administrative Courts.

compliance issues	Actual	135	494		
Respond to inquiries about the Fee Schedule (telephone, letter, facsimile)	Target	2,250	1,900	1,900	1,900
	Actual	1,393	2,240		
Number of Motions addressed by prehearing Administrative Law Judge (ALJ) through motions practice, including prehearing conferences	Target	11,000	10,000	10,000	10,000
	Actual	7,709	9,256		
Number of Stipulations for Settlement approved[10]	Target	7,000	7,000	7,000	7,000
	Actual	6,712	6,438		
MAJOR MEDICAL INSURANCE AND SUBSEQUENT INJURY FUNDS: Savings by fee scheduling and denying charges for treatment of non-related conditions	Target	$2,500,000	$2,500,000	$2,500,000	$2,500,000
	Actual	$4,720,678	$6,988,300		
Average number of days from receipt to resolution of medical billing disputes	Target	20	20	20	20
	Actual	13	14		
Total current accredited physicians[11]	Target	1,150	1,125	1,125	1,125
	Actual	1,100	1,073		
Number of seminars provided by the Division to the public	Target	40	40	40	40
	Actual	34	47		
Number of Division-sponsored seminars held outside of the metro area	Target	7	10	10	10
	Actual	15	14		
Number of audited and on-site reviews of commercial carriers' claims handling practices	Target	40	2412	2413	2414
	Actual	23[15]	23[16]		
Premium Cost Containment cumulative employers certified	Target	4,366	4,693	4,693	4,693
	Actual	4,393	4,738		
Cumulative employers self-insured	Target	106	105	105	105
	Actual	104	101		
Cash flow advantage to self-insured employers program wide[17]	Target	$120,000,000	$133,000,000	$133,000,000	$133,000,000
	Actual	$129,000,000	$124,000,000		
Number of self-insureds audited for regulatory compliance	Target	24	30	30	30
	Actual	18	3618		
Number of insolvent self-insured employers who default on workers' compensation	Target	0	0	0	0
	Actual	0	0		
Number of cumulative defaulted self-insured employers under supervision	Target	3	3	3	3
	Actual	3	3		
Number of revoked permits annually reviewed	Target	51	57	57	57

[10] When some or all of the open issues on a case are settled for an amount of money, a document called a stipulated settlement document is drawn up, which is then approved per statute by the Director. The statistic in this measure represents the number of sets of paper settlement documents approved. Source: Stipulation Activity Report (#862).

[11] There was some attrition of Level I physicians in FY06. Level I physicians consist primarily of chiropractors.

12 Effective FY 05-06, a risk-based audit selection approach was implemented that entailed selection criteria based on insurance market share. The risk-based audit selection approach targets insurance carriers with significant claim volume. The total number of audits decreased. However, the number of claims audited per insurance carrier will increase.

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[15] The number of future audits will be affected by the additional complex analyses required and testing and transition to a new web-based audit program, and the new risk- based audit approach.

[16] The number of future audits will be affected by the additional complex analyses required and testing and transition to a new web-based audit program, and the new risk- based audit approach.

[17] Cash flow advantage is derived by subtracting the self-insured employer's total cost to self-insure from the total or premium equivalency for each fiscal year.

18 The total number of audits (36) include 27 on-site audits and 9 internal audits.

i. Key Trends in Workers Compensation

There were several changes to the Workers' Compensation Act during the previous legislative session that impact the Division. A substantial amount of resources will be expended to implement these statutory changes, including drafting and promulgation of rules; amending and creating forms; receiving input from, and providing information to, stakeholders.

For instance, new legislation was passed that requires most employers to give injured workers a choice of medical providers, and allows the injured worker to change medical providers. Other legislation added a requirement that the medical fee schedule set maximum rates for expert testimony and evaluations. It also increased the amount of benefits an injured worker may receive in a lump sum, and changed the process for receiving a lump sum; as well as increasing the amount of disfigurement benefits that may be awarded. In addition, new provisions were adopted regarding the requirement to have, and exemptions from, workers' compensation insurance on a construction site.

The Division continues to utilize a mainframe computer system developed in 1991 when the Division was created. As technology changes and fewer people with the ability to support such a legacy system are available, the Division will continue to examine moving to a different system. In addition, many states are moving to a paperless system. Such a system dramatically reduces the problems that a natural disaster or fire could cause, and allows multiple users to access documents at the same time. Setting up such a system can be expensive and require restructuring, but is a trend the Division is exploring.

CDLE'S PERFORMANCE PLANNING AND REVIEW FORM

Identification		
Appraisal Period	**From**:	**To**:
Name		**ID#:**
Class Title:		**Employee's Position Number:**
Unit Name:		**Organizational Unit Number:**

Performance Planning Section		
This proposed Performance Plan was submitted by the employee on	DATE	**Date PDQ reviewed: (*See "Note" on Page 2)** Date:
Rater's Signature I have reviewed and agree with the submitted Performance Plan:		Date:
Reviewer's Signature I have reviewed and agree with the submitted Performance Plan:		Date:
Employee's Signature I agree with the final Performance Plan:		Date:

End of Cycle Review	
The overall performance rating for the entire period was: LEVEL 1: 1 – 199 points LEVEL 2: 200 – 300 points LEVEL 3: 301 points To exceed 300 points and gain a LEVEL 3 (peak performer) rating, see the attached criteria.	**Total Points**
Rater's Signature I agree with the End-of-Cycle performance evaluation:	Date:
Reviewer's Signature I agree with the End-of-Cycle performance evaluation:	Date:
Employee's Signature I agree with the End-of-Cycle performance evaluation:	Date:

The employee has the right to request a Dispute Resolution Review concerning this performance plan within 5 days following the date the leader has signed the plan or rating. (If the employee refuses to sign, the rater should so note and indicate the date on which the employee refused on line designated for the employee's signature. Such refusal does not extend the 5 days period for requesting a review.)

Performance Worksheet

Part 1. Objectives

	Objective	Critical Success Factor	Tracking Sources	Actual Results	Rating			Weight	Points (Weight x Rate)
					3	2	1		
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									

3 = exceeds expectations, 2 = meets expectations, 1 = needs improvement
**The objectives must equal a total weight between 60 and 95.
The balance of weight points, to equal 100, will be used under Competencies

Sub-total:

* NOTE : Supervisor and employee have reviewed the employee's PDQ along with this performance evaluation on the date indicated on Page 1.

Performance Worksheet

Part 2. Competencies

Competency	Description	Factors	Rating			Weight	Points (Weight x Rate)
			3	2	1		
Communication	Effectively communicates by actively listening and sharing relevant information with co-workers, supervisors and customers so as to anticipate problems and ensure the effectiveness of the unit.	Listens and responds to others appropriately; Provides accurate and timely information; Expresses ideas and information clearly and effectively orally or in writing.					
Interpersonal Skills	Interacts effectively with others to establish and maintain smooth working relations	Shows positive personal regard when dealing with others; respects other persons' time and priorities; is polite and courteous towards others; treats others fairly and without prejudice or bias; handles conflict constructively					
Accountability	Demonstrates responsible personal and professional conduct, which contribute to the overall goals and objectives of the Department of Labor and Employment.	Shows personal/ professional pride in his/ her work; displays a high degree of honesty and integrity; conveys a positive/ professional image of the agency; complies with policies, procedures and rules. Demonstrates honesty; keeps commitments; behaves in a consistent manner.					
Job Knowledge	Is skilled in job-specific knowledge which is necessary to provide the appropriate quantity and quality of work in a timely and efficient manner.	Completes assignments accurately and in a timely and efficient manner.					
Customer Service	Works effectively with internal/ external customers to satisfy service expectations.	Identifies who his/ her customers are and treats them appropriately; meets customer expectations in a timely manner.					
3 = exceeds expectations, 2 = meets expectations, 1 = needs improvement **The competencies must equal a total weight between 5 and 40. **The balance of weight points, to equal 100, will be used under Objectives**		**Sub-total Objectives:** **Sub-total Competencies:**					
		Total:					

Performance Worksheet

Part 3: The Development Plan

Learning Need	Developmental Activities	By When	Completed Yes or No

Performance Worksheet

Part 4: Reviews

Interim Reviews/Coaching Log		
Date	Details of Discussion/Action	Leader's Signature

Performance Worksheet

Part 5: End-of-Cycle Reviews

Employee's Comments:

Rater's Comments:

Rating Procedures

Within an individual or team plan the rating scale for each objective is: "1" indicates failure to meet the objective or competency; "2" indicates meeting the objective or competency; and "3" indicates exceeding the objective or competency. The ratings of each objective/ competency are then weighted according to their importance to achieve a maximum possible point total of three hundred. A score of one hundred ninety-nine or less indicates the employee "needs improvement" (not eligible for a performance salary adjustment.) Point totals for Level 2 ("Satisfactory") will be 200 to 300. Selection of Level 3 ("Outstanding") will be done by the department Management Team. There are no quotas or forced distribution processes for determining the number or percentages of employees in any of the three performance levels.

In accordance with Personnel Rule 6-4 (G), three ratings levels instead of four will be used effective for the performance cycle beginning April 1, 2007. The definition of the former level 4 rating will now apply to the level 3 rating definition. The definitions of the former levels 2 and 3 have been combined to create the new level 2 rating definition. The level 1 rating definition is unchanged. The standard definitions will be as follows:

Definition of Level 3

This rating represents consistently exceptional and documented performance or consistently superior achievement beyond the regular assignment. Employees make exceptional contribution(s) that have a significant and positive impact on the performance of the unit or the organization and may materially advance the mission of the organization. The employee provides a model for excellence and helps others to do their jobs better. Peers, immediate supervision, higher-level management and others can readily recognize such a level of performance.

Definition of Level 2

This rating level encompasses a range of expected performance. It includes employees who are successfully developing in the job, employees who exhibit competency in work behaviors, skills, and assignments, and accomplished performers who consistently exhibit the desired competencies effectively and independently. These employees are meeting all the expectations, standards, requirements, and objectives on their performance plan and, on occasion, exceed them. This is the employee who reliably performs the job assigned and may even have a documented impact beyond the regular assignments and performance objectives that directly supports the mission of the organization.

Definition of Level 1

This rating level encompasses those employees whose performance does not consistently and independently meet expectations set forth in the performance plan as well as those employees whose performance is clearly unsatisfactory and consistently fails to meet requirements and expectations.

Marginal performance requires substantial monitoring to achieve consistent completion of work, and requires more constant, close supervision. Though these employees do not meet expectations, they may be progressing satisfactorily toward a level 2 rating and need to demonstrate improvement in order to satisfy the core expectations of the position.

Level 3, the "Outstanding" level (informally called "Peak Performer") is unique and difficult to achieve because it represents consistently exceptional performance or achievement beyond the regular assignment. CDLE employees will be eligible to be considered for the rating of "Outstanding" by meeting at least one of the following two sets of criteria and being forwarded by their appointing authority for review and approval by the Department Management Team: consistently exceeding performance standards and/or making a significant contribution that is unique or unusual. For purposes of this review the

Management Team will be facilitated by a designated Division Director. The intent is for the Executive Director to act as an independent reviewing authority and further enhance equitability in the system. The rating supervisor/ manager will compose a narrative explaining the employee's accomplishment and forwarding it through the work unit management team to the appointing authority. The work unit management team will review the recommended evaluation and narrative to decide if the submission meets the standard of equitability within the work unit. Employees whose performance rating is at or above 275 **may** be recommended for "Level 3" under either set of criteria. Employees whose performance rating is less than 275 may qualify only under criteria b. Supervisors must use these criteria during the planning process to ensure the employee understands what constitutes "Level 3". Under this system there is no arbitrary limit to the number of employees who can achieve the "Level 3" rating. Employees receiving a "needs improvement" rating in any objective or competency are not eligible for nomination to "Level 3."

a. Consistently exceeding performance expectations

Under this criterion, "Level 3" performers consistently exceed standards in their objectives and competencies including the core competencies. This consistent, exceptional performance is maintained throughout the duration of the rating period. Employees recommended for "Level 3" must consistently exceed performance expectations in at least five of the following ten areas:

1. Taking the initiative to identify and complete unassigned work that contributes to the mission of the organization.
2. Volunteering and achieving success in solving problems and perform work outside their scopes of responsibility.
3. Exerting persistent effort above and beyond what is expected in order to meet business objectives.
4. Trying new solutions with an aggressive, go-getter attitude.
5. Completing work objectives ahead of schedule.
6. Completing work objectives using fewer financial resources, personnel, equipment or other resources than allocated.
7. Putting extra effort into improving work processes and/or exceeding product specifications.
8. Exceeding customer expectations regarding the quality of service provided.
9. Operating as team players by assisting others in accomplishing their work objectives.
10. Exceptionally high production levels within a measurable activity.

Employees with a point total at or above 275 on the Individual Performance Plan will be eligible for consideration for "Level 3" unless, and except for unusual circumstances, the evaluation includes a "needs improvement" rating in any objective or competency. Under this criterion of "Level 3" employees **consistently** perform at this higher level on a project-after project, activity-after activity basis across most objectives and competencies.

b. Making a significant contribution that is unique or unusual.

Under this criterion of "Level 3" employees make a unique or unusual contribution that **significantly** advances the mission of the organization. The selected employee meets performance expectations in most objectives and competencies but may exceed performance expectations in a single objective or competency during the rating period. This unique or unusual contribution provides a **significant** benefit to the organization. Any supervisor/ manager may submit any employee for consideration as an "Outstanding" under (b) provided the employee is not under a corrective action or performance improvement plan. Supervisors and employees must alert one another whenever a significant contribution is about to commence, is in progress or has occurred.

Examples of a unique contribution that may contribute to a rating of “Outstanding” include:

1. Exceptionally high production levels within a measurable activity.
2. Innovation of or improvement to a process that contributes significantly to increased quality, effectiveness or efficiency.
3. Design and implementation of product enhancements that significantly improve the flexibility, safety, or ease of use of that product.
4. Identification and implementation of an important new technology.
5. Exceptional response to an unforeseen event.

A single unique or unusual contribution during a rating period does not necessarily provide sufficient evidence for a “Level 3” rating. Other aspects of the employee’s performance are also taken into consideration when determining the final performance. Adequate documentation for a contribution under criterion b. will need to be presented at the time of review at the rating official level.

DISPUTE RESOLUTION PROCESS
DEPARTMENT OF LABOR AND EMPLOYMENT
Performance Pay System (PPS)
Revised July 1 2008

I. The Performance Dispute Resolution Process is an open and impartial proceeding to allow both parties the opportunity to have their issues heard and an optimal solution reached. Performance Dispute Resolution moves away from a traditional adversarial system toward one that supports and encourages dialogue and communication to solve problems. The performance dispute resolution process is not a grievance or appeal. No party has an absolute right to legal representation, but may have an advisor present. It is an effort to find the truth and promote understanding. At the time the employee receives his/her performance plan or performance evaluation, and a conflict arises the employee is encouraged to proceed with any or all of the following:

A. Informally discuss the dispute with the supervisor to achieve resolution;
B. Arrange to discuss the issue with the second-level supervisor (reviewing official) in an effort to pursue resolution;
C. Contact the CDLE-Office of Human Resources (OHR) for a recommendation of a trained advisor. However, a party need not rely on a trained advisor. Anyone may be selected as an advisor. The advisor gives advice on the procedure, shares his/her knowledge of other cases and may confer on strategy for presentation of the issues. The parties are expected to represent and speak for themselves, but may have an advisor present in the mediation or panel review.
D. Contact OHR to inquire about the available options and procedures for review. The OHR may convey information only about rules, process and procedures, and may not advise the employee as to strategy or give any advice relating to the substance of the dispute.

Every effort shall be made by the parties to resolve the issue at the lowest possible level in a timely manner. Informal resolution before initiating the dispute resolution process is strongly encouraged but, if unsuccessful, the employee must contact the OHR to determine whether the dispute is reviewable under the Personnel Board Rules and Personnel Director's Administrative Procedures (see Attachment A for relevant Dept. of Personnel Procedure). All days relevant to this process are understood to be **business** days. Departmental (internal) dispute resolution time frames may be extended by mutual consent of the disputing parties. **Only issues originally presented in writing shall be considered throughout the dispute resolution process.**

II. If the employee takes no action within five business days, the performance plan or evaluation is considered final. The five day period shall not be considered to begin until meaningful discussion between the rater and the employees has reached an end. If the dispute is not resolved within **5** days of the employee's receipt of the performance plan or evaluation (signed by rater and reviewer) and the employee seeks further review, the employee must take the action described in sections A or B below. The "request for dispute resolution" form is available on the HR website. This form

does not present the "argument;" only the notice that a dispute resolution is being requested. A copy of the disputed performance plan or evaluation should be attached to the request. The OHR will forward a copy of the request to the supervisor and, at the appropriate time, assemble the documents for the dispute resolution for the mediation or panel review.

A. MEDIATION.

1. Mediation is available upon the request of the employee but both parties must agree to accept mediation. If either party refuses mediation the process will proceed to internal Panel review. If Panel Review is chosen first the dispute may not return to mediation.

2. The OHR shall maintain a list of trained mediators. Within **3** days of receipt of the request for mediation, OHR shall provide to the parties the name of an available mediator on the list. A mediator may not be employed by the same Appointing Authority as the disputing parties; such mediator would be ineligible for that dispute. If one of the parties states an objection to the mediator, the next mediator on the list shall be designated. Each party will be allowed one objection.

3. OHR shall contact the selected mediator and supply a copy of the disputed plan/evaluation to the mediator.

4. The mediation process shall terminate at the end of the scheduled meeting--the parties either having reached an agreement or having failed to do so. The final decision reached in the mediation is based on a review of the facts surrounding the current issue, within the limits of the Department program. The result of the mediation can not alter the department performance management program. At the close of the mediation, the mediator shall prepare a report on the prescribed form that summarizes the dispute and the outcome. The mediator and the parties shall sign the report, and a copy shall be supplied immediately to the parties. The mediator shall forward the original report to the OHR.

5. If the parties failed to reach an agreement as a result of mediation, the dispute will proceed to panel review.

B. PANEL REVIEW

1. The OHR shall maintain an alphabetical list of trained panel members. When a panel review is requested, OHR shall provide to each party the top three names from the list. If there are any subsequent disputes members will be chosen from the list in sequence. In order to maintain a bias free environment, the panel will not include more than 1 member from the disputing parties section. If Panel Review is chosen first the dispute may not return to Mediation.

2. Within **2** business days of receiving the three names, each party may strike one name from the list, and shall immediately advise OHR. It will not be required to present a reason for the striking. When a panel member is struck, that panel member moves to the "bottom" of the list and the next available panel member rotates into the slot just vacated. *Each party to the dispute is allowed ONE strike only*. The OHR shall, without undue delay, contact the selected panel members and forward to them the available documentation relating to the dispute. Any panel member retains the right to recuse himself/herself in the event of a perceived conflict in a given dispute, or for other appropriate reasons. Accordingly, the next name on the list will then rotate in.

3. There should always be a "surplus" of at least nine panel members available in the event of a recusal or other unplanned absence by a panel member, or the need arises for more hearings to be held. Because it is likely that most panel reviews will be requested and held within a 3-to-4 week period following the end of the performance plan period (roughly, April - May), it is recommended that panel members be available as needed during that time. If the disputed issue concerns a plan, and not a performance review, a panel could be convened as early as April. Therefore, panel members should be prepared to be available by April 1.

It is possible that an employee who is also a panel member may spend a large portion of that time period (April – May) performing reviews. Therefore, supervisors of those panel members should be aware of this eventuality, and treat the absence accordingly. (For example, some of a panel member's "regular" workload may have to be covered in the same way as if he/she were on vacation.)

4. **Within 5 days** of the establishment of the panel, the following should occur:

(a) The panel members shall select a chairperson or, to expedite the process, OHR may appoint one. The chairperson shall set the time, date, place of the panel review, upon consultation with the other panel members and the parties. The hearing should be set within this 5-day period or, if logistics will not permit, as soon as practicable.

(b) The panel hearing shall be informal but business-like. The hearing may be "in-person" or one or more parties may be accommodated via teleconference. Thought should be given to the order of presenters, length of time allowed each presenter, and any panel voting process. Either party may have an advisor present, but the advisor may not speak on behalf of the party (unless needed as a language translator). Both sides should present a precise, understandable statement of their position. It is recommended that the employee present first with the supervisor responding to the issues; however, there is no required format. The panel members may ask questions of the parties. The panel members shall be responsible for maintaining control, facilitating discussion, reminding others of their role and defining the scope of the review. It is recommended that a time limit be set for a hearing. One or, at most, two hours would normally be time limit. Continuances are at the sole discretion of the panel.

(c) The panel renders a written recommendation, which must be approved by a majority of the panel members. The panel shall designate one member to write the final recommendation. A copy of the decision shall be provided to the Director of Human Resources. The Director shall review the recommendation and forward a copy to the appropriate appointing authority. Panel members are limited to addressing facts surrounding the current action and shall not substitute their judgment for that of the rater and reviewer, but may advise raters to follow the department program, correct errors or reconsider a performance rating or plan. Panel members also cannot render a decision that would alter the department pay program.

III. All time limits outlined above may be waived if mutually agreed by the parties, but performance planning and rating deadlines must be met. State imposed deadlines may not be waived (See Chapter 8 of the Personnel Board Rules and Personnel Director's Administrative Procedures.) The written recommendation of the panel is final unless the appointing authority does not accept the recommendation of the panel and decides on an alternate course of action. In such cases the appointing authority will present objections and decision to the Department Personnel Director. The Department Personnel Director will review them to ensure conformance with Department and State rules and procedures. If this final decision is unacceptable to the disputing party then the state rules for appeal will apply.

IV. Final resolution of issues concerning the individual's performance plan (or lack of a plan) and the individual's performance evaluation (or lack of a final overall evaluation) concludes at the Departmental (internal) stage and no further recourse is available. These issues may not be disputed to the State Personnel Director. Only original issues involving the application of the department's performance management program to the individual employee's performance plan or evaluation may proceed beyond the department level to the State Personnel Director, in accordance with the external process rules, after completion of the internal process.

Written notice must be given to employees at the completion of the internal stage of the dispute resolution process for issues disputable at the external stage. The notice must include deadlines and address for filing and the requirement to include a copy of the original written dispute and the Department's final decision. An appeal must be filed with the State Personnel Director within **5** business days of receipt of the final decision. The State Personnel Director administers the external stage and may select a qualified neutral third party to review the matter. For an issue being reviewed at the external stage, the neutral third party will not substitute their judgment for that of the rater, reviewer, or the department's dispute resolution decision maker. The neutral third party has the authority to instruct a rater to follow the agency's program, correct an error or reconsider an individual's performance plan or final overall evaluation. The neutral third party may also suggest other appropriate processes such as mediation. **Appeals must be addressed to: Colorado State Personnel Director, Attention: Dispute Resolution Process, 1313 Sherman Street, Room 122, Denver CO 80203.** The Director shall issue a written decision that is final and binding within 30 days.

V. The OHR shall maintain a record of each dispute and the resolution.

VI. Retaliation against any person involved in the dispute resolution process is prohibited.

ATTACHMENT A

The following are taken from the Personnel Board Rules and Personnel Director's Administrative Procedures, Chapter 8:

DISPUTE RESOLUTION PROCESS (PPS ONLY)

8-95. Only the following matters are disputable:

A. The individual performance plan, including lack of a plan during the planning cycle;

B. The individual final overall performance evaluation, including lack of a final overall evaluation; and,

C. The application of a department's performance management program to the individual employee's plan and/or final overall evaluation.

8-96. The following matters are not disputable:

A. The content of a department's performance management program;

B. Matters related to the funds appropriated; and,

C. The performance evaluations and achievement pay of other employees.

REQUEST FOR DEPARTMENT MEDIATION SERVICES OF PERFORMANCE MANAGEMENT ISSUES

Employee Name _____

Employee ID Number _____

Organization Unit _____

Work Address _____

Work Phone _____ Work FAX _____

E-Mail Address _____

Supervisor's Name/Title/Address/Work Phone:

_____

_____

_____

Team Appraisal? Yes _____ No _____

Reason for Request:

_____ Individual performance plan, including lack of a plan. *Attach a brief statement of the facts.*

_____ Individual performance evaluation, including the lack of a final overall evaluation. *Attach a copy of the performance plan, and a brief statement of the facts.*

_____ Application of the department's performance management program to the individual employee's plan and/or final overall evaluation. *Attach a copy of the performance plan and/or evaluation and a brief statement of the plan, policy or process that was misapplied and supporting facts.*

Desired outcome _____

Mediator's Name (*for use by OHR)* _____

REQUEST FOR DEPARTMENT PANEL REVIEW OF PERFORMANCE MANAGEMENT ISSUES

Employee Name _____

Employee ID Number _____

Organization Unit _____

Work Address _____

Work Phone _____ Work FAX _____

E-Mail Address _____

Supervisor's Name/Title/Address/Work Phone:

_____

_____

_____

Team Appraisal? Yes _____ No _____

Reason for Request:

_____ Individual performance plan, including lack of a plan. *Attach a brief statement of the facts.*

_____ Individual performance evaluation, including the lack of a final overall evaluation. *Attach a copy of the performance plan and a brief statement of the facts.*

_____ Application of the department's performance management program to the individual employee's plan and/or final overall evaluation. *Attach a copy of the performance plan and/or evaluation and a brief statement of the plan, policy or process that was misapplied and supporting facts.*

Desired outcome _____

CDLE PERFORMANCE DISPUTE RESOLUTION PROCESS
GROUND RULES AND GUIDELINES FOR PARTICIPANTS

It is important that all parties involved, in order to maintain fairness, and ensure quality in arriving at workable solutions to the problem, use the following ground rules. Open communication between the parties creates the greatest likelihood of reaching agreement.

GROUND RULES

1. Confidentiality is essential.

2. Discuss the problem with the other party or with people both agree to involve in the resolution process. Ask your team for help only if both parties agree.

3. Attendance and promptness at scheduled meetings is mandatory.

4. Everyone has equal opportunity to be heard.

5. Interruptions should be kept to a minimum.

6. Statements should never include insults or sarcasm. Address the problem, not the person.

7. Agree and follow-up on task assignments.

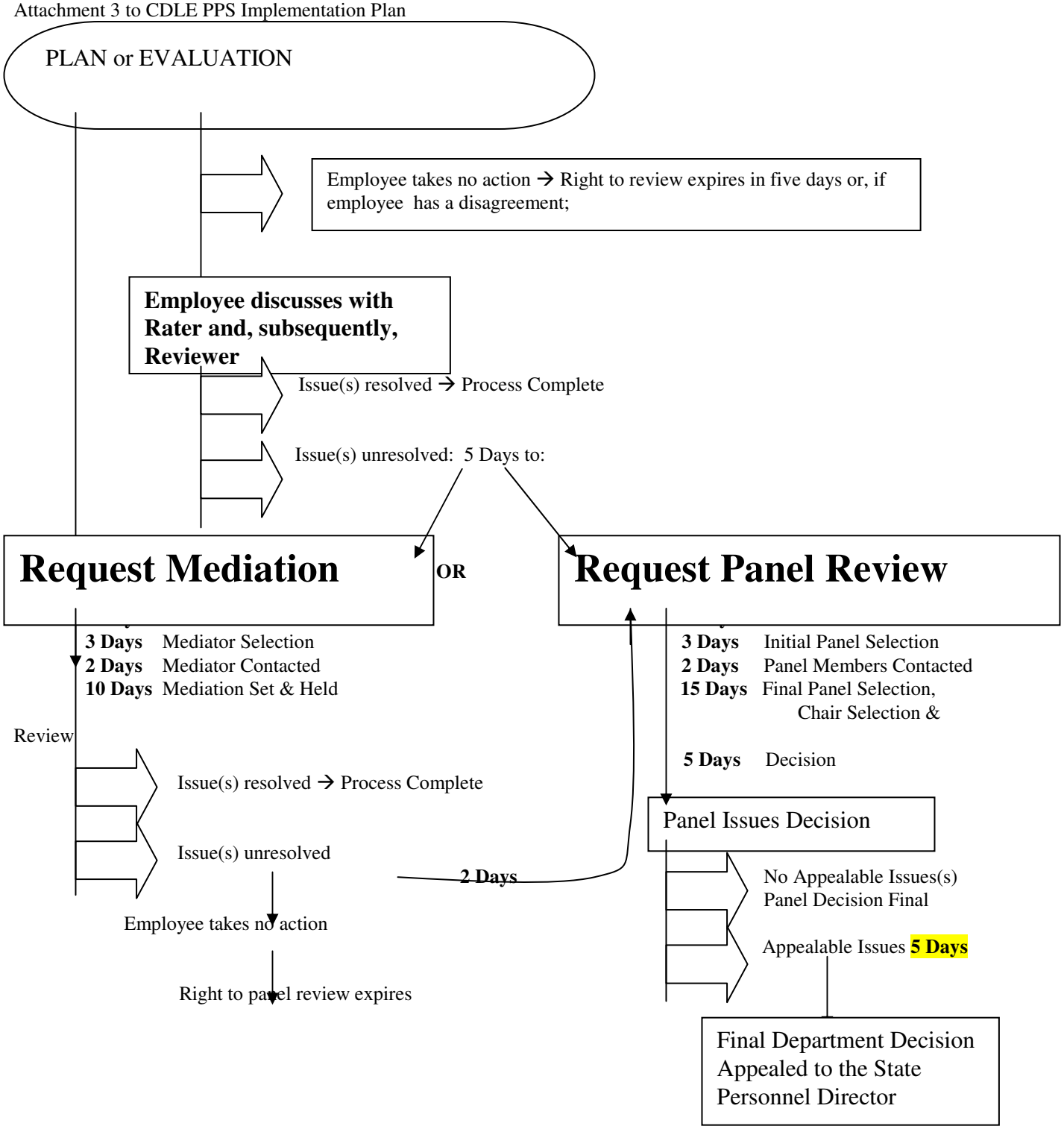
8. Establish other ground rules by agreement.

9. Summarize what is agreed upon and what remains to be resolved at the end of each meeting.

The following are guidelines for consideration as a participant in the Performance Dispute Resolution processes.

GUIDELINES

- Share all relevant information.
- Be specific – use examples.
- Focus on what you need, not on who is right or wrong.
- Respectfully disagree with any participant openly.
- Make statements, invite questions, and listen to the answers.
- Agree on what important words mean.
- Jointly design ways of testing agreements and solutions.
- Expect all members to identify and solve problems.
- Be as open as possible, but respect the right of privacy.
- Respect differences; don't discount others' ideas.
- Be supportive, not judgmental.
- Give timely feedback directly and openly.
- Focus on task and process, not on personalities or hidden agendas.
- Avoid sidetracking.


PLAN or EVALUATION
Employee takes no action → Right to review expires in five days or, if employee has a disagreement;
Employee discusses with Rater and, subsequently, Reviewer
Issue(s) resolved → Process Complete
Issue(s) unresolved: 5 Days to:
Request Mediation
OR
Request Panel Review
3 Days Mediator Selection
2 Days Mediator Contacted
10 Days Mediation Set & Held
Review
Issue(s) resolved → Process Complete
Issue(s) unresolved
Employee takes no action
Right to panel review expires
2 Days
3 Days Initial Panel Selection
2 Days Panel Members Contacted
15 Days Final Panel Selection, Chair Selection &
5 Days Decision
Panel Issues Decision
No Appealable Issues(s) Panel Decision Final
Appealable Issues 5 Days
Final Department Decision Appealed to the State Personnel Director

COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT
PERFORMANCE MANAGEMENT PROGRAM
DISPUTE RESOLUTION DECISION FORM – PANEL REVIEW

Requesting Party: Work Unit or Division: Address: Phone: e-mail:	Responding Party: Work Unit or Division: Address: Phone: e-mail:
Date Hearing Request Received:	Hearing Date and Time:
Names of others present on behalf of: Requesting party: Responding party:	
Matters Reviewable (check all that apply): ___ The individual performance plan ___ Lack of a performance plan ___ The individual performance evaluation ___ Lack of a final overall performance evaluation ___ The application of the department's plan to the individual employee's plan and/or evaluation **Details:**	
Position of Requesting Party (relief requested):	**Position of Responding Party**:

Mediation: (check appropriate box) Attempted; unsuccessful: _____ Waived by either or both parties: _____	[For information only] Did the parties utilize the assistance of an advisor (at any time in this process)? (yes/no) Requesting party _____ Responding party: _____
Documents Reviewed:	
Panel Members: _____ _____ _____	

FINDINGS AND RECOMMENDATION:

Dated this ____ day of _____, 20___. By: _____

Panel Member

NOTICE OF RIGHT TO APPEAL

A PARTY HAS **FIVE BUSINESS DAYS** WITHIN WHICH TO FILE A WRITTEN REQUEST FOR REVIEW OF THIS DECISION WITH THE DIRECTOR OF THE STATE DEPARTMENT OF PERSONNEL. The procedures set forth in the State Personnel and Administrative Rules, 8-98 B, are as follows:

B. External Stage. This stage is administered by the State Personnel director. **Only those original issues involving the application of the department's performance management program to the individual employee's plan and/or evaluation may advance to this stage.**

1. Within five working days from the date of the department's final decision, an employee may file a written request for review with the **Colorado State Personnel Director, Attention: Dispute Resolution Process, 1313 Sherman, Room 122, Denver, CO 80203**

2. The request for external review shall include a copy of the original issue(s) submitted in writing and the department's final written decision.

   a. The director or designee shall retain jurisdiction but may select a qualified neutral third party to review the matter. The director or designee shall issue a written decision that is final and binding within 30 days.

+ +

Contact the CDLE's Office of Human Resources (303) 318-8200, for questions on procedures for external stage appeal to the State Department of Personnel. The written request is simply a letter. There is no form for this purpose.