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Category: Workforce Investment Act
Subject#: WIA Waiver: Formula Set-Aside for "Local Activities"
Source: Federal/State
<u>Revise/Replace:</u> 06-09-WIA
Contact: Workforce Development Programs Director
Distribution: Managers, Workforce Development Staff, Workforce Region Directors, Fiscal
Colorado One-Stop System Policy Guidance Letter#: 06-09-WIA Revised
Date: April 2, 2013

All revisions are highlighted in yellow.

I. REFERENCE(S):

Workforce Investment Act (WIA) of 1998, Sections 129(b), 134, & 189(i)(4)(B); and WIA Final Rules – 20 CFR 661.400, 661.420(c) and (e), and 663.145; TEGL 14-00, change 1, dated Nov. 19, 2001.

II. PURPOSE:

To establish policy and provide guidelines for the implementation of the waiver granted by the US Department of Labor (USDOL), which allows set-aside of WIA formula funds for statewide activities. To update this policy with information on the recent change of guidelines related to the waiver authority. To clarify grant submission and reporting procedures.

III. BACKGROUND:

In December 2004, the Colorado Department of Labor and Employment (CDLE) applied for a waiver of the WIA requirements governing Adult, Dislocated Worker, and Youth formula funds allocated to local workforce investment boards. The purpose of the waiver request was to gain additional flexibility for local workforce boards to design programs for employers, or for underserved populations (such as employed and incumbent workers, disabled youth, and high income dislocated workers), that might otherwise have negatively impacted WIA performance outcomes.

In April 2005, USDOL granted the waiver request, stating that:

“... the State of Colorado is granted a waiver of the language that limits the authority to provide the activities identified in WIA Sections 129(b) and 134 to the state. The waiver is approved through June 30, 2007, with an effective date of January 1, 2005. Under the waiver, local areas will be permitted to request use of up to 10 percent of local area formula allocation funds for adults, dislocated workers and youth to provide statewide employment and

training activities identified at WIA Sections 129(b) and 134. The waiver is granted on the condition that the state will continue to meet its responsibilities related to statewide employment and training activities.”

On August 7, 2006, CDLE received notification from the US Department of Labor that this waiver had been reconsidered and expanded to allow the set aside of up to 50% of local WIA Adult and Dislocated Worker funds. However, WIA Youth funds remain at a 25% maximum for set aside purposes. This additional flexibility in the use of local funds was valid through June 30, 2007.

During PY09 USDOL revised its waiver policies and restricted the set aside of local formula funds to the following options:

- Up to 20% of local Dislocated Worker funds for layoff aversion; or
- Up to 20% of local Adult funds; or
- Up to 10% of Adult and 10% of Dislocated Worker funds

In addition, USDOL required that the negotiated WIA Common Measures still applied to any set aside initiative. Colorado chose the first option and was granted this waiver for incumbent worker layoff aversion training set asides using local Dislocated Worker funding. The waiver is currently in effect through June 30, 2017.

For purposes of clarity, the local set-aside funds that local workforce boards may utilize for “statewide activities” were called “**Local Activity Funds**” in the waiver request. When CDLE submitted the waiver request, we anticipated the following sequence of events to occur for regions to take advantage of these funds:

- Boards would identify local needs for additional flexibility in the use of formula funds based on changing economic conditions and employer needs
- Boards would submit a proposal (much like a discretionary grant proposal) for a plan modification which identifies the funding stream and amount and percent of funds to be set aside; describes the services and activities to be delivered; defines the performance outcomes; and sets expenditure and performance goals independent of the WIA formula grants.
- CDLE would evaluate and approve the Board proposal in conjunction with a review of current performance and expenditure levels.

IV: POLICY/ACTION:

A. Determining the Set-Aside

Local boards may choose whether to apply for implementation of the Local Activity Funds waiver for up to 20% of any formula allocated Dislocated Worker funds, including any of the following formula-allocated funding streams:

- PY or FY Dislocated Worker formula funds
- PY or FY 25% Enhanced Dislocation Worker funds
- Other PY or FY 25% funds that are formula allocated and specifically allow the application of the local activity funds set aside waiver.

1. The 20% maximum set-aside for Local Activities is to be calculated on the total allocation received minus the amount set aside for administration, i.e. on the funds remaining for program expenditures.
2. Regions must operate under the current 10% limit on administrative costs. No

separate amount may be set aside for administration of the Local Activities projects.

3. Should a region also choose to transfer funds (or if the region has previously transferred funds) between the Adult and Dislocated Worker programs, the maximum set aside for Local Activities may be calculated on the original budget for program expenditures **or** on the program funds remaining after a transfer has occurred.
4. If a transfer out of funds occurs at any time subsequent to the set-aside of funds for Local Activities, and this transfer reduces the amount of program funds available, the amount of Local Activity Funds must also be adjusted downward to comply with the **20%** limit.
5. If a local board wishes to apply for a set aside, **the effective date for use of these funds can be no sooner than the beginning of the period of performance indicated on the Expenditure Authorization or modification.**
Note: Expenditure Authorizations/modifications cannot be backdated.
6. **Enrollments and Exits: Customers served with the Local Activity Funds must be newly enrolled once the EA is executed, or later.** The **Connecting Colorado** program code for enrollment is as follows:
 - **DS - Dislocated Worker Set Aside (applies to DW, Enhanced DW, or other formula allocated DW funds that allow the set aside waiver to be applied)**

Regions are also required to utilize the **Connecting Colorado** TM (termination) screen to exit participants from the set aside grant when they are no longer active in the grant. In addition, regions must exit all participants within 60 days of the expiration date of the grant as part of the grant closeout process. The TM screen should also be used to record entered employment data for all participants exiting to a job.

B. Developing and Submitting the Local Activity Funds Request(s)

1. **Allowable Activities:** Local workforce boards may use Local Activity Funds for specialized services, pilot projects, or demonstration projects involving one or more of the following:
 - **Incumbent worker training programs that are part of a layoff aversion strategy**
 - **All training delivered under this waiver is restricted to skill attainment activities**
2. **Use of Expenditure Authorizations to Submit Grant Requests:** Regions may use the Expenditure Authorization (EA) document to submit their Local Activity Funds request(s), but will be required to provide the following items and information:
 - a. EA Signature Page signed by the Workforce Center Director and WIB Chair (Additional signatures, if needed, should be obtained after CDLE has approved the Local Activity Funds request(s))
 - b. Budget Information and Narrative
 - **Modified BIST chart with lines added to show the proposed set-aside funding**
 - **A line item budget for the proposed set-aside program expenditures along with an expanded budget narrative explaining how the funds will be used (include training, supportive services, staff, etc.)**
 - c. Scope of Work/Rationale for Modification – see section 3 below for the

project narrative guidelines

- d. Goals, Objectives, and Outcomes – identify and describe the specific performance outcomes that are proposed in place of the WIA performance measures or common measures
- e. Planned Participation and Termination Summary form, which includes the proposed numerical performance outcomes for the Local Activity funds project.
- f. Projected Cumulative Quarterly Expenditures form for the Local Activity Funds project

3. Scope of Work/Rationale for Modification: The scope of work portion of the EA should be used for the grant narrative and address the following items:

- a. A statement of the purpose of the project
- b. A description of the employers or targeted groups identified and why the targeted group(s) can't be served with formula funds
- c. Types of skills sets needed and training anticipated for participants or incumbent workers that meets or is developed based on industry skill standards or certifications
- d. Types of employment and wage level opportunities available after training
- e. Identification of the role of employers, economic development, and other partners in the planning and implementation of the project
- f. A complete description of the project or activities, identifying the specialized services or new initiatives that represent a pilot or demonstration project, and how these services differ from formula program services
- g. Identification of time frames for implementation
- h. Description of proposed performance outcomes

4. EA Submission and Approval Process: The Local Activity Funds EA(s) should be submitted electronically to Chrystalynn and **your State Program Monitor**. The signature sheet should be sent via fax or mail to your Workforce System Specialist. CDLE will review the proposed projects and provide timely feedback regarding changes needed to achieve final approval. (As part of the review, we will consider the current performance, activity, and expenditure levels of the region's formula programs. We will also consider whether all grant submission requirements have been fulfilled and whether the grant meets the intent of the waiver.) Once approval is obtained, the region should follow standard procedures for submission of the EA.

5. Quarterly Reports: Regions implementing set aside grants are required to submit a project quarterly status report for each grant, commencing with the first quarter of the grant and concluding with a closeout status report due within 60 days following expiration of grant funds. One original signed project quarterly report should be submitted to your CDLE Workforce System Specialist. The attached quarterly report format should be utilized. Due dates for quarterly project status reports are:

Quarters ending:

July - September 30 due: October 31

October 1 – December 31 due: January 31

January 1 – March 31 due: April 30

April 1 – June 30/due: July 31

V. IMPLEMENTATION DATE:
Immediately upon receipt of this Policy Guidance Letter.

VI. INQUIRIES:

Please direct all inquiries to your **State Program Monitor** at Workforce Development Programs.

Elise Lowe-Vaughn, Acting Director
Workforce Development Programs

ATTACHMENT 1: Set Aside Project Quarterly Report