



October 2, 2009

Workforce Investment Act Policy Letter No. 08-17

To: WIA Local Workforce Investment Boards (WIBs), Fiscal Agents,
Administrative Entities, and One-Stop Operators

From: Douglas E. Lumpkin, Director

Subject: Local Workforce Investment Act (WIA) Programs - American Recovery and
Reinvestment Act (ARRA) of 2009

I. Purpose

To provide policy and direction related to the use of the local Recovery Act funds. Local ARRA funds are to be used in activities that expeditiously and effectively, with full transparency and accountability, serves the WIA Adult, Dislocated Workers and Youth participants in the local areas.

II. Effective Dates

Immediately

III. Background

The Recovery Act is intended to preserve and create jobs, promote the nation's economic recovery and assist those most impacted by the recession. It is expected that local WIA programs will show significant increases in the number of customers served and more of these customers will receive training through June 30, 2010, using strategies designed to meet long term economic recovery as well as immediate needs.

IV. Requirements

Providing Ohio's job seekers with the skills and employment strategies they need to obtain jobs today, jobs that provide a living wage and benefits, helps Ohio's families provide for themselves and start down the path of economic recovery. Implementation of the Recovery Act should yield not only increased services and

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training for workers in need, but also an invigorated, more innovative public workforce system that enables future economic growth and advances shared prosperity for Americans. The implementation of the Recovery Act should ensure special emphasis on dislocated workers, low-income individuals, under-skilled adults and disconnected youth.

To achieve this outcome, the United States Department of Labor (USDOL) and the State of Ohio have established five guiding principles that apply to the state and local workforce system:

- Transparency and accountability in the use of funds, decision making, and services;
- Timely expenditures and service implementation;
- Increasing workforce system capacity and service levels;
- Using data and workforce information to guide strategic planning and service delivery that will bring growth into Ohio's economy; and
- Fostering and leveraging resources on all levels.

Existing eligibility criteria for Adults and Dislocated Workers remain the same as formula funded WIA program eligibility. (See WIATL 27, Source Documentation Guide)

Youth-Summer Program

- Summer program period begins May 1 and ends September 30.
- Age broadened for youth; 14 to 24 years of age.
- Flexibility for youth served with ARRA funds who participate in summer only.*
- Work readiness is the only indicator to assess the effectiveness of summer employment,* and is the only indicator required to assess the effectiveness of summer employment for youth regardless of age.

*The USDOL approved Ohio's request to waive the common performance measures for out-of-school youth ages 18 to 24 who participate in work experience that occurs outside of the summer months.

Youth participants that are co-enrolled into formula funded WIA programs will be included in common performance measures.

A. Priority of Service

Similar to requirements for WIA Adult local formula funds, procedures must be in place to ensure that ARRA adult services are available first to recipients of public assistance and other low-income individuals as described in WIA section 134(d)(4)(E). Local WIBs are encouraged to review their existing priority of service policies and modify as needed, to include additional targeted groups identified specifically in USDOL Training and Guidance Letter 14-08.

Priority of service for adult, dislocated worker, and youth ARRA-funded programs should include:

- Low-Income Veteran and Eligible Spouses
- Low-Income
- Public Assistance Recipients (which includes those in receipt of Food Stamps)
- Dislocated workers
- Under-Skilled Adults
- Disconnected Youth (from education and/or work)
- Unemployment Claimants
- Individuals with Disabilities
- Offenders

Local areas are encouraged to use the 5% eligibility exception defined in WIA 129 (c)(5), allowing local areas to serve youth that meet other priority service criteria.

As with existing policy at the federal level through the Jobs for Veterans Act, with all things being equal, veterans receive priority over non-veterans for access to any and all program services.

When the veterans priority of services is applied in conjunction with another statutory priority like the ARRA priority for recipients of public assistance and low-income individuals, veterans and eligible spouses who are members of the ARRA priority group must receive the highest priority within that priority group, followed by nonveteran members of the ARRA priority group. See example:

If there are two individuals applying for WIA ARRA funded program services, both individuals are low-income, but only one individual is a veteran, the low-income veteran would be selected first to participate.

If there are two individuals applying for WIA ARRA funded program services, and one individual is a veteran, and the other individual is low-income; the low-income individual would be selected first to participate.

B. Collaboration and Partnerships

Local WIBs must collaborate and develop close partnerships with Unemployment Insurance (UI), Trade, and all other programs serving individuals specifically targeted for services with Recovery Act funds. Coordination with existing programs to determine how best to meet individual customer needs should include looking at all available resources in order to make the most effective use of funds at the local level. This should include awareness of and linkages to any statewide initiatives through Recovery Act funds.

C. Allowable Activities/Services

The intent of ARRA-funded program services is that all eligible individuals have ready, expedient access to needed services without an overly burdensome process. The existing sequence of service requirements for access to the WIA adult and dislocated worker program still apply. However, WIBs must ensure that existing processes to access services are not causing an unnecessary delay for participation. The demonstration of “need for services” can be a core and/or intensive service and pave the way toward enrollment into more staff-assisted value-added services.

ARRA funds can be used for all activities specified under the WIA programs. Because workers may need to upgrade current skill sets or learn new skills to compete for career opportunities, training is a particularly vital service during the economic recovery. As stated previously, significant increases in the number of customers served in the local programs are expected as a result of efforts made toward implementation of stimulus program activities. Further, eligible individuals enrolled in training services are expected to increase as well. Co-enrollments between local formula funded programs and stimulus funded programs are allowable within the parameters of the federal regulations, WIA, and state policy. Adult and Dislocated Worker ARRA participants are included in local performance measure calculations.

Note: The development of training curriculum by institutions of higher education, adult career centers can be considered a training activity under WIA. Curriculum is developed when curriculum is needed for a specific training need for a company, and the required curriculum is not available to purchase "off the shelf". Local WIBs are encouraged to assess current training offerings to ensure the training curriculum being developed does not duplicate existing training offerings. Curriculum activities should focus on adapting existing or creating new curriculum that will result in a short-term increase in training capacity, rather than long-term curriculum development activities.

Local WIBs are required to expend 30% of ARRA funding on training activities. Training services include the full range of occupational skills training, adult education and literacy services, and customized training as described in WIA section 134 (d)(4)(D). Local WIBs are required to provide documentation regarding the 30% training expenditure requirements upon request and/or for monitoring and auditing purposes.

Local WIBs are expected to make certain that training services are widely available to targeted populations identified in this issuance. Local WIBs

are encouraged to emphasize six methods of providing training to eligible participants:

- Individual training accounts (ITAs)
- Customized training
- On-the-job training
- Contracts with institutions of higher education, adult career centers, and other training providers
- Contracts with community-based organizations
- Registered apprenticeship
- Basic literacy programs

ITAs allow job seekers maximum flexibility in selecting training providers to meet their training and education needs.

Customized Training is designed to meet the special requirements of an employer or group of employers and is conducted with a commitment by the employer to employ an individual on successful completion of the training. The employer pays for not less than 50 percent of the cost of the training. Customized training is a valuable tool to create specific training for an employer or group of employers with jobs available that require similar skill needs that results in positive employment outcomes for individuals upon completion of training. Ohio is under a waiver authority that replaces the statutory employer match of 50% for customized training, requiring a 10% to 50% sliding scale match. (See WIATL 40 for details)

On-the-job training (OJT) provides job seekers with work experience and skills training needed to successfully obtain and retain employment. Under OJT, the employer is provided up to 50 percent of the costs of training calculated and paid on a wage reimbursement basis. Historically, data shows that outcomes for individuals completing OJT are higher than for those using other training methods.

Basic literacy programs that combine education and occupational training. Basic literacy programs will be considered training when combined with the following trainings:

- occupational skills training;
- on-the-job training;
- programs that combine workplace training with related instruction,
- training programs operated by the private sector;
- skill upgrading and retraining;
- entrepreneurial training;
- job readiness training.

This would allow the Adult Basic and Literacy Education (ABLE) costs to count towards the 30% requirement but only when combined with other

types of training - not when basic literacy programs are offered as a standalone or with other non-training activities.

Contracts with institutions of higher education, adult careers centers, and other training providers allow WIBs to work directly with institutions of higher education, such as community colleges, adult career centers, and other training providers to quickly design education and training to fit the needs of the job seekers and employers they are serving. Given the budget restrictions many states and regions are facing, these contracts are intended to provide a means of quickly ramping up much-needed training capacity.

Contracts with community-based organizations. WIA section 134(d)(4)(G) gives local areas the flexibility to contract directly with community-based organizations to provide training, in lieu of ITAs, if the WIB determines that there is a training services program of demonstrated effectiveness offered in the local area by a community-based organization to serve special participant populations that face multiple barriers to employment.

Registered apprenticeship combines education and work experience resulting in a nationally recognized portable credential and offers adults and dislocated workers a career pathway into specific fields. WIA funds may be integrated with apprenticeship programs to support both pre-apprenticeship and apprenticeship programs.

D. Supportive Services

ARRA requires states to ensure that supportive services are readily available in order to provide participants with the financial support necessary to successfully complete program services and entry or re-entry into the job market.

As with any supportive services, they must be both reasonable and necessary, and documented in the participant file. Specific examples of supportive services include:

- Mileage reimbursement to/from work or training activity
Transportation (bus passes or tokens) *Vehicle purchases are not permitted.
- Vehicle repair
- Dependent care
- Housing
- Emergency services
- Work-related expenses (i.e. uniforms if required)

- Payment for vocationally necessary exams or certificates, including GED

Supportive services do not count toward training-related expenses.

Needs-Related Payments (NRPs) and Needs-Based Payments (NBPs)

Both types of income support payments are intended to provide financial assistance to participants while they are pursuing their career goals. The length of training should not determine whether NRPs and NBPs are approved. NRPs are statutorily-defined in WIA, whereas NBPs are defined by the State and further defined at the local level. Both of these types of supportive services are acceptable under stimulus-funded programs. Policy requirements for NRPs have been issued separately; detailing WIA regulations (see also 20 CFR sections 663.815, 663.820, 663.825, 663.830 and 663.840). **It should be noted that NBPs are allowable only with stimulus funds, not local formula funds.**

Need-Related Payments

NRPs may be provided to adults and dislocated workers who are unemployed and do not qualify for or have ceased to qualify for unemployment compensation for the purpose of enabling individuals to participate in programs of training services. See ODJFS WIA Policy Letter 08-14 for detailed requirements.

Needs-Based Payments

Payments provided to individual participants where such payments are necessary to enable the individual to participate in ARRA-funded adult, dislocated worker and youth activities. Payments are made in accordance with locally developed policy. The local NBP and NRP policy must include the following:

- Amount of payments
- Duration of payments
- Explanation of how on-going assessment of need while participating will be determined
- How payments will be monitored

The individual determination of participants' NBPs and the amount of such payments are based upon the results of the continuing assessment while participating in training services. The provisions and amounts of such payments should be documented in the participant file.

Allowances

Cash allowances shall be considered incentive or stipend awards to youth participants for participation and achievement in WIA-related activities paid for with ARRA funds. Incentives may be paid for educational and

work achievements. Youth may be paid an incentive for getting a GED and/or may be paid an incentive for getting a job or returning to school. Additional payments may be made at midpoint and at the completion of the WIA follow-up period to encourage staying in school or in the workforce. Local workforce areas may choose to provide gift certificates in lieu of cash payments for food, clothing, or gasoline.

Training-Related Expenses

ARRA can pay for training-related expenses such as books, tools, fees and uniforms that are required as part of the training curriculum. These costs are included in the 30% expenditure training rate.

If there are questions regarding specific training-related costs, contact OWD Grants Management at WIAQNA@jfs.ohio.gov, and add Grants Management Training-Related Costs in the subject line.

E. Availability of Funds

Due to the limited availability of ARRA funds, the State has issued expenditure rate requirements under separate policy (See WIA Policy Letter 08-16). The majority of these funds must be utilized within the first year of availability. Local areas are reminded that the Recovery Act provides additional funds under existing WIA authority, and the design and delivery of the services for the Recovery Act funds are governed by WIA laws and regulations.

F. Procurement

Youth funds

The Workforce Investment Act requires that eligible providers of youth activities be identified by awarding grants or contracts on a competitive basis, by Local WIBs and based on recommendations from the youth council and the criteria contained in the State Plan. One of the principal duties of the youth council is to recommend eligible providers of youth activities in the local area to be awarded grants or contracts on a competitive basis by the Local Board.

The USDOL approved Ohio's request to waive the competitive selection of Youth program vendors and sub-grantees, authorizing limited expedited procurement under 29 CFR 97.36 (c), Expenditure of Youth Program dollars. (See section I. USDOL Waivers of this policy)

Adult / Dislocated Worker funds

The Recovery Act allows local WIBs to award contracts to institutions of higher education, such as community colleges, or other eligible training providers, if the local WIB determines it would facilitate the training of multiple individuals in high-demand occupations and if the contracts do not

limit customer choice. This is in addition to the current methods for providing training. It is intended to help increase education and training enrollments and capacity by allowing WIBs to pay for the full cost of training at the beginning of the course.

As always, WIBs must adhere to any federal, state, and local procurement requirements (whichever is the most restrictive) when awarding contracts.

G. Additional Prohibition on Use of Funds

None of the funds appropriated or otherwise made available in the ARRA may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

Not more than 70% of youth funds may be spent on in-school youth.

PY 2008 formula funds waivers that do not apply to ARRA funds as defined in TEGE No. 14-08:

- Waiver of the funds transfer limit between Adult and Dislocated Worker Programs.
- Waiver of the limitation on the use of funds for capitalization for small business.
- Waiver to permit the state to use a portion of rapid response funds to conduct statewide activities including incumbent worker training.

ARRA funds may only be used for authorized WIA activities.

H. Recapture and Reobligation of ARRA Unobligated Funds

Local areas must fully spend and liquidate 100% of WIA ARRA funds by June 30, 2010. Local area cumulative liquidated expenditure rates will be determined by the June expense report upload that is due to Bureau of County Finance and Technical Assistance no later than July 20, 2010. These expense rates will be communicated to WIA area fiscal agents by July 30, 2010. Local areas will have a grace period to correct and report final expense data that must be uploaded to BCFTA during the 30-day reporting period after BCFTA sends the first preliminary reconciliation report to the area. All unspent and unliquidated WIA ARRA funds will be recaptured at that time based on the final reconciliation report. These funds will not be reallocated to the local areas but will be converted to WIA ARRA Statewide Discretionary funds. ARRA expenses reported after issuance of the final reconciliation report will be disallowed under the ARRA funding streams, per WIA Section 127(a), 128(c) and 133(b) & (c). (See WIAPL 08-16, ARRA Expenditure Rates)

The state will recapture and reallocate Recovery Act funds that are eligible for recapture and reallocation in accordance with 20 CFR 667.160 at the end of PY 2009. The WIA recapture and reallocation requirements,

including the calculations relating to the percentage of funds that have been obligated, will be applied to Recovery Act WIA formula funds separately from the application of these requirements to the PY 2009 regular WIA formula funds.

I. USDOL Waivers

USDOL approved three waivers associated with stimulus-funded youth program activities. It is important to note that these waivers apply only to youth enrolled in stimulus-funded activities.

1. Common measures performance requirements are waived when serving out-of-school youth, ages 18-24, who participate in work experience only that occurs outside of the summer months. Under these conditions, the work readiness indicator will serve as the only indicator of performance for such youth.
2. Youth participating in work experience only will not be subject to the 12-month follow-up requirement, nor will they be subject to the youth framework activities defined in WIA, 20 CFR section 664.405 (minimal objective assessment and individual service strategy requirements must be conducted).
3. Competitive selection of Youth program vendors and sub-grantees is waived, authorizing limited expedited procurement under 29 CFR 97.36 (c), Expenditure of Youth Program dollars through September 30, 2009.

There are two existing waivers that do not apply to the ARRA funds.

1. Waivers of the funds transfer limit between Adult and Dislocated Worker programs above 30 percent do not apply to Recovery Act funds.
2. A local area may not waive the limitation on the use of funds for capitalization of businesses at WIA section 181(e).

J. ARRA Financial and Performance Reporting

Local workforce areas have a responsibility to monitor and ensure accountability of subrecipients, contractors, subcontractors, and vendors. Local workforce areas must require their contractors and subcontractors to meet the expenditure requirements as defined in WIA Policy Letter 08-16.

The ODJFS Office of Workforce Development program team will use the performance data to identify areas for technical assistance and/or a collection of promising practices. The Bureau of Monitoring and Consulting Services will use the current performance data during on-site and desk reviews to identify areas of best practices and program concern.

The ODJFS Office of Workforce Development will inform WIBs of specific SCOTI data collection and reporting requirements.

K. Local WIB Requirements

Local workforce areas must adhere to all ODJFS policies, subgrant agreements, memos and guidance when carrying out ARRA funded activities.

Local plans for ARRA stimulus fund activities should be easily available for public and stakeholder review.

V. Technical Assistance

For additional information, you may send your questions to the Office of Workforce Development: WIAQNA@jfs.ohio.gov.

VI. References

Workforce Investment Act of 1998, Public Law 105-220: 29 USC 2871, Section 136 (b)(2)(A)(i), and Section 136 (h)(2)(A) and (B)

Workforce Investment Act of 1998, Public Law 105-220: 20 USC 9273, Section 503 (a), (b)(1), (b)(2)(A), (B), and (C)

Final Regulations, Subpart (B), 20 CFR Sections 666.200, 666.210, 666.300, 666.310 and 667.650

Final Regulations, Subpart (D), 20 CFR Sections 666.400 and 666.410

TEGL No. 14-08, Guidance for Implementation and Wagner-Peyser Funding in the American Recovery and Reinvestment Act of 2009 and State Planning Requirements for Program Year 2009

TEGL No. 14-08, Change 1

U.S. Department of Labor, Waiver Approval Letter, April 29, 2009