

DIRECTIVE

WORKFORCE SERVICES

Number: WSD13-13

Date: May 20, 2014

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TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: CONTRACTS WITH HIGHER EDUCATION OR ELIGIBLE TRAINING PROVIDERS

EXECUTIVE SUMMARY:

Purpose:

This directive provides guidance regarding Local Workforce Investment Boards (local boards) contracting directly with institutions of higher education or eligible training providers, and extends this flexibility through Program Year (PY) 2014-15.

Scope:

This directive applies to all local boards.

Effective Date:

This directive is effective on the date of issuance.

REFERENCES:

- Workforce Investment Act (WIA) Sections 122, 123, 129(c), and 134(d)(4)(D)
- Consolidated Appropriations Act, 2014 (Public Law 113-76)
- Continuing Appropriations Act, 2013 (Public Law 112-175)
- Consolidated Appropriations Act, 2012, Division F (Public Law 112-74)
- Title 20 United States Code (USC) Sections 1001-1002
- One-Stop Comprehensive Financial Management Technical Assistance Guide
- Department of Labor (DOL) Training and Employment Guidance Letter (TEGL) 18-13, Workforce Investment Act (WIA) Adult, Dislocated Worker and Youth Activities Program Allotments for PY 2014; Final PY 2014 Allotments for the Wagner-Peyser Act Employment Service Program Allotments; and Workforce Information Grants to States Allotments for PY 2014. (April 3, 2014)
- DOL TEGL 25-12, WIA Adult, Dislocated Worker and Youth Activities Program Allotments for PY 2013; Final PY 2013 Allotments for the Wagner-Peyser Act

The EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.

Employment Service Program Allotments; and Workforce Information Grants to States Allotments for PY 2013 (May 1, 2013)

- DOL TEGL 12-09, Joint Guidance for States Seeking to Implement Subsidized Work-Based Training Programs for Unemployed Workers (January 29, 2010)
- WIA Directive [WSD13-10](#), Subject: Eligible Training Provider List (ETPL) Policy and Procedures (April 4, 2014)
- WIA Directive [WSD12-10](#), Subject: Procurement (November 30, 2012)
- WIA Directive [WIAD04-4](#), Subject: Recovery of WIA Tuition and Training Refunds (August 18, 2004)

STATE-IMPOSED REQUIREMENTS:

This directive contains no State-imposed requirements.

FILING INSTRUCTIONS:

This directive supersedes Workforce Services Directive WSD12-20, dated June 26, 2013, and finalizes Workforce Services Draft Directive WSDD-101 dated April 17, 2014. The Workforce Services Division received no comments during the comment period. Retain this directive until further notice.

BACKGROUND:

In order to increase the availability of training to workforce investment system customers, the Consolidated Appropriations Act, 2012 provides local boards the flexibility to contract directly with institutions of higher education or eligible training providers under certain conditions. Specifically, the Consolidated Appropriations Act, 2012 states, "a local board may award a contract to an institution of higher education or other eligible training provider if the local board determines that it would facilitate the training of multiple individuals in high-demand occupations, if such contract does not limit customer choice." The Continuing Appropriations Act, 2013, and the Consolidated Appropriations Act, 2014 provide the same flexibility and are intended to increase education, training enrollments, and training capacity at a time when many states and educational institutions are experiencing budget shortfalls. Direct contracts with institutions of higher education or eligible training providers allow local boards to quickly design training to fit the needs of both job seekers and employers.

POLICY AND PROCEDURES:

Definitions

For purposes of this directive, the term "institution of higher education" means an educational institution that:

- admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

- is legally authorized within such State to provide a program of education beyond secondary education;
- provides an educational program for which the institution awards a bachelor's degree or provides not less than a two-year program that is acceptable for full credit toward such a degree;
- is a public or other nonprofit institution (including private nonprofit institutions); and
- is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time [20 USC 1001 subsection (a)].

The institution of higher education term also includes:

- additional institutions [20 USC 1001 subsection (b)].
- a proprietary institution of higher education [20 USC 1002 subsection (b)].
- a postsecondary vocational institution [20 USC 1002 subsection (c)].

The term "eligible training providers" refers to training providers listed on the State's ETPL (see WIA Directive [WIAD13-10](#), Eligible Training Provider List Policy and Procedures).

Contract Provisions

Local boards may use adult, dislocated worker, and youth formula funds to award contracts to institutions of higher education or eligible training providers, under the following conditions:

- the local board determines it would facilitate the training of multiple individuals in high-demand occupations, and
- the contracts do not limit customer choice

This flexibility applies to PY 2012-13, PY 2013-14, and PY 2014-15 funds, and is applicable throughout the life of the funds (e.g., July 1, 2014 through June 30, 2016 for PY 2014-15 funds).

Training Services

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). Before entering into such contracts, local boards should assess current training offerings to ensure that the contracts are not duplicating existing training courses and curricula. These training contracts can be performance-based to ensure that they result in real outcomes for the students.

Curriculum Development

As part of the contract, the institution of higher education or eligible training provider could develop curriculum for emerging sectors and enhance the capacity of the institutions to ensure quality training within limited timeframes. As such, the development of curriculum by institutions of higher education can be considered a training activity under WIA, if it is developed in the context of providing training to WIA participants. 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.

Contracting a Portion of a Training Class

In addition, to further maximize WIA funds, local boards may contract with an institution of higher education or eligible training provider to procure a portion of a training class.

Example: A community college has a solar technology program with 25 training slots. A local board contracts with the community college for 15 of the 25 training slots; therefore, the community college will have 10 enrollments for non-WIA students.

This flexibility provides local boards the ability to select multiple high-demand training programs to serve WIA participants. It also allows local boards to maximize their adult, dislocated worker, and youth training funds, while allowing institutions of higher education or eligible training providers to continue to offer course availability to non-WIA students.

Procurement

Local boards must comply with applicable federal and State procurement regulations and policies prior to awarding contracts to institutions of higher education or eligible training providers (See WIA Directive [WSD12-10](#)). Therefore, local boards must conduct procurements in a manner designed to provide full and open competition. Thus, if a local board determines a sole source procurement to be appropriate, they must meet the requirements of noncompetitive proposals as stated in the [One-Stop Comprehensive Financial Management Technical Assistance Guide](#), Chapter II-10, Procurement. Additionally, local boards must ensure contracts identify training providers as either vendors or subrecipients consistent with the guidance provided in the One-Stop Comprehensive Financial Management Technical Assistance Guide, Appendix E.

Payment

Local boards may pay for the full cost of training at the beginning of the course. However, local boards must ensure they have policies and procedures in place to recover unused WIA training monies and/or tuition refunds as required in WIA Directive [WIAD04-4](#), Recovery of WIA Tuition and Training Refunds. Additionally, any classroom training purchased with youth formula funds must meet the youth program design parameters established in WIA Section 129(c).

EPTL Requirements

Institutions of higher education, such as community colleges, do not need to be on the State's ETPL in order to be awarded a contract. Other providers of training that are not institutions of higher education must be on the ETPL in order to be awarded a contract.

Reporting Training Activities for Institutions of Higher Education not on the ETPL

When institutions of higher education, such as community colleges, are placed on the ETPL, they are assigned a State Provider ID and each program offered by the institution is assigned a State Program ID. Institutions of higher education contracting directly with local boards are not required to be on the ETPL and therefore will not have State Provider/Program IDs.

To accommodate these training providers, enrollment activity code #353 has been established in CalJOBSSM to enroll participants in occupational skills training programs, Adult Education and literacy services, and customized training at institutions of higher education that have contracted directly with a local board.

This activity code should only be used for participants enrolled at institutions of higher education in training programs that are not on the ETPL and would otherwise be required to receive training from an ETPL provider. If an ETPL provider is not required based on the funding stream, then the appropriate CalJOBSSM code should be used.

ACTION:

Please bring this directive to the attention of the local board and other relevant parties.

INQUIRIES:

If you have any questions, please contact your [Regional Advisor](#) at 916-654-7799.

/S/ JOSÉ LUIS MÁRQUEZ, Chief
Workforce Services Division