

Oklahoma Employment Security Commission



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OKLAHOMA EMPLOYMENT AND TRAINING ISSUANCE # 18-2005

Date: October 13, 2005

To: WIA Board Staff
WIA Grant Recipients

From: Richard Gilbertson, Director,
Workforce Integrated Programs Division

Subject: Waiver Flexibility for Hurricane Katrina Recovery

Purpose: The purpose of this policy is to provide a list of provisions of the Workforce Investment Act (WIA) that have previously been waived by the Department of Labor or new provisions that have not been waived but are within the statutory waiver authority under the WIA regulations at 20 CFR 661.400. These waivers will provide local boards with increased flexibility to respond to job seekers and business needs in areas receiving an influx of evacuees.

Background: Oklahoma is designated a work-flex state for the two-year period, July 1, 2005, through June 30, 2007, pursuant to a work-flex plan submitted as part of the Strategic Two-Year State of the Workforce Investment Plan. This work-flex waiver authority is applicable to certain portions of WIA Title I, subtitles B and E and Sections 8-10 of the Wagner Peyser Act. Once a state is identified as a work-flex state, it has the authority to identify additional local level provisions to waive without further approval from the Secretary of Labor. DOL/ETA has issued guidance for states to waive certain provisions that can increase your flexibility to serve job seekers and businesses impacted by Hurricane Katrina.

Message: Local boards are encouraged to take advantage of Oklahoma's Work-Flex designation and to apply for waiver of statutory provisions listed below that will enhance your ability to serve Hurricane Katrina impacted job seekers and businesses. Application procedures are outlined in Oklahoma Employment and Training Issuance # 16-2005. That OETI also lists statutory and regulatory requirements that are excluded from waiver under the Governor's Work-Flex authority. Concurrent with Oklahoma's designation as a Work-Flex state, waiver was granted to use Individual Training Accounts (ITAs) for older and out-of-school youth participants, and also to permit a match based upon a sliding scale, rather than the full 50% employer match, for customized training at WIA Section 101(8)(C).

Provisions of WIA That May be Waived

- Waiver of the funds transfer limitation at WIA section 133(b)(4). The Governor is permitted to approve local area requests to transfer up to 100 percent of local area allocations between the WIA Adult and Dislocated Worker programs.
- Waiver of the language that limits the authority to provide the activities identified in WIA section 134. This waiver permits local areas to request the use of up to 100 percent of local area formula allocation funds to provide statewide employment and training activities.
- Waiver of the reallocation provisions at WIA sections 128(c)(2) and 133(c)(2), and 20 CFR 667.160, to permit the state to develop more flexible recapture and reallocation policies.
- Waiver of the required 50 percent employer match for customized training at WIA section 101(8)(C). This allows local areas to offer a sliding scale match based on criteria developed by the state for businesses impacted by the hurricane and those training hurricane-impacted individuals.
- Waiver of the employer reimbursement for on-the-job training at WIA section 101 (31)(B) for hurricane-impacted businesses and businesses training hurricane-affected individuals.
- Waiver of performance provisions in WIA Section 136(b) and (c) for those participants who were served in impacted state and local areas leading to the displacement of their WIA participants. Because the local areas on the Gulf Coast have lost their current WIA participants to other local areas, and in many cases, other states, ETA may consider exclusion from the performance measures of those participants who have been forced from their local area or state due to the hurricane, although this would not allow states to opt out of all reporting requirements.
- Waiver of the limitation on use of funds for capitalization of businesses at WIA section 181(e) to permit WIA funds to be used to capitalize a small business up to \$5,000 in concert with entrepreneurial or microenterprise training.
- Waiver of the requirement that local programs provide each of the ten youth program elements at WIA section 129(c)(2) as options available to youth participants. Such a waiver will allow affected local areas to focus on the youth services most needed.
- Waiver of 20 CFR 664.510 under WIA section 129 to permit the use of Individual Training Accounts (ITAs) for youth.

- Waiver of 20 CFR 664.450(b) under WIA section 129(c)(2)(I) that requires all youth participants to receive some form of follow-up services for a minimum duration of 12 months. In anticipation of the transitive nature of youth participants displaced by the hurricane, many youth may receive services in temporary locations and return back to their homes or move to new locations and such youth could be included for a waiver of the 12 month minimum.
- Waiver of WIA Section 123 requirement that eligible providers of youth activities shall be identified on a competitive basis. In those areas impacted by Hurricane Katrina, waivers can be considered where service providers have diminished capacity or where there is a dearth of offerors.

It is the goal of OESC to have waiver requests for Hurricane Katrina recovery granted or denied within 30 days of receipt.

Action Required: This is official State policy that must be maintained in your permanent policy files.

Contact Information: Refer inquiries to Tony Russo at tony.russo@oesc.state.ok.us or (405) 962-7594.