

# Oklahoma Employment Security Commission



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## Oklahoma Employment and Training Issuance #3-2008

**TO:** WIA Grant Recipients  
WIB Staff

**FROM:** Richard J. Gilbertson, Director  
Workforce Integrated Programs Division

**DATE:** February 1, 2008

**SUBJECT:** Local Activity Funds Policy for Utilizing up to 25 percent of Formula Funds through the Workforce Investment Act (WIA) for Local Statewide Activities.

**PURPOSE:** The purpose of this issuance is to provide policy on utilizing the provisions of this new waiver for *Local Statewide Activities* effective November 27, 2007.

**BACKGROUND:** In the Strategic State Plan for Title I of the Workforce Investment Act (WIA) and the Wagner-Peyser Act for the two-year period July 1, 2007 through June 30, 2009, the State of Oklahoma requested and received a waiver from the Secretary of Labor permitting the use of 25 percent of local area formula funds to provide certain allowable statewide employment and training activities authorized at WIA §134(a)(3). Local Workforce Investment Boards (LWIBs) will now be able to request to use up to 25 percent of their annual adult, dislocated worker, and/or youth formula funds to develop activities that meet the guidelines of this policy within the local area. This new policy can assist LWIBs to increase their services and become more responsive and innovative to meet customers' needs.

**MESSAGE:** While WIA formula funds have very restricted uses, WIA statewide activity funds provide for greater flexibility. WIA formula funds designated as *Local Activity Funds* have flexibility similar to WIA statewide activity funds. Per Oklahoma's Strategic Two-Year State of the Workforce Investment Plan, LWIBs choosing to designate WIA formula funds as *Local Activity Funds* must identify a need for additional flexibility. To achieve this, LWIBs must analyze the changing economic conditions in their region and the demands of the employers in order to identify a need for additional flexibility.

Once a need for this additional flexibility is determined, LWIBs must submit a *Local Activity Funds Designation Request* to Richard J. Gilbertson, Director, Workforce Integrated Programs Division, Oklahoma Employment Security Commission. This request will be forwarded to the Oklahoma Department of Commerce (ODOC) with recommendations to approve or disapprove. ODOC will then make the final determination and notify OESC and LWIBs. If approved, the request will be submitted to the Finance Division of OESC for grant modifications.

A. *Local Activity Funds Designation Request* — LWIBs choosing to designate WIA formula funds as *Local Activity Funds* must submit a *Local Activity Funds Designation Request* that includes a narrative description using the following format:

1. Submit a request as a *local plan amendment* to the OESC for a portion of the area's formula funds to be designated as *Local Activity Funds* to be used consistent with the activities allowable under this policy. Such designation may include up to 25 percent of the workforce area's WIA adult, dislocated worker, or youth formula allocations as *Local Activity Funds* and will list the grant numbers, dollar amounts, and the percentage of the transfers;
2. Describe the need for additional flexibility;
3. The *local plan amendment* will include a project description of the *local statewide activities* to be provided and the services to be delivered; the expected performance outcomes, including any expected performance improvements; and, the expected expenditure benchmarks for the project.
4. The *local plan amendment* will include an assurance from the WIB that all WIA-required services will continue to be provided using the LWIBs' WIA adult, dislocated worker, and youth formula allocations;
5. The *local plan amendment* will include an acknowledgement from the LWIB that they will continue to meet its performance targets and expenditure benchmarks for WIA adult, dislocated worker, and youth formula allocations;
6. Impact on jointly funded workforce programs; and
7. Impact on current LWIB workforce systems.

B. *Allowable Uses of Local Activity Funds* — WIBs may use *Local Activity Funds* for the following services and activities in accordance with WIA Section 134(a)(3), excluding administration, through June 30, 2009:

1. The provision of capacity building and technical assistance to local areas, one-stop operators, one-stop partners, and eligible providers, including the development and training of staff and the development of exemplary program activities;
2. To conduct research and demonstrations;
3. The implementation of innovative incumbent worker training programs;

4. The establishment and implementation of programs targeted to empowerment zones and enterprise communities;
  5. The implementation of innovative programs for displaced homemakers, which may include an individual who is receiving public assistance and is within 2-years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and
  6. The implementation of programs to increase the number of individuals trained and placed in nontraditional employment.
- C. Incumbent Worker Definition — For the purposes of *local activity funds*, incumbent workers are currently employed workers whose employers have determined that the workers require training in order to help keep their firms competitive and the subject workers employed, avert layoffs, upgrade workers’ skills, increase wages earned by employees and/or keep workers’ skills competitive. An incumbent worker is 18 years old and above; legally authorized to work in the United States; and has complied with Selective Service requirements. Incumbent workers who receive training paid for with *local activity funds* are not required to meet the WIA adult, dislocated worker, or youth eligibility criteria.
- D. Incumbent Worker Training — LWIBs must conduct incumbent worker training projects with businesses in targeted industry sectors that increase worker employability/productivity and enhance reemployment strategies:
1. Training will be designed to meet the special requirements of an employer (including a group of employers);
  2. Training will be conducted with a commitment by the employer to continue to employ an individual on successful completion of the training;
  3. Training may take place in or out of the workplace and during or after work hours for employees of a specific employer or group of employers; and,
  4. Employers are required to pay for part of the training as follows:
    - No less than 10 percent of the training for employers with 50 or fewer employees,
    - No less than 25 percent of the training for employers with 51-100 employees, and
    - For employers with more than 100 employees the current statutory requirements continue to apply that is the employer pays for not less than 50 percent of the cost of the training.
- E. Performance Outcomes for Incumbent Workers — per guidance received from the U.S. Department of Labor, Employment and Training Administration, States are required to report performance outcomes for incumbent workers served under waivers in the Workforce Investment Act Standardized Record Data (WIASRD) as follows:
1. Since the individuals are “employed at participation,” they are excluded from the Entered Employment Rate but tracked under the Employment Retention Rate and Average Earnings;
  2. Incumbent workers will be tracked through OSL;
  3. Negotiated performance outcomes for the Adult common measures will apply even if youth formula funds pay for the training; and
  4. The performance outcomes for incumbent workers may qualify for incentives and/or be subject to sanctions.

- F. Implementation Requirements — LWIBs choosing to use WIA formula funds as *Local Activity Funds* must:
1. Continue to operate under the current ten percent limit on local administrative costs with no separate amount set aside for the administration of these funds including any indirect charges to these funds;
  2. Continue to use at least 30 percent of WIA youth funds to provide activities to out-of-school youth (this requirement will continue to apply to the total amount of the LWIBs' WIA youth formula allocation before transfers);
  4. Continue to meet performance goals for WIA adult, dislocated worker and youth formula allocations and commit to specific performance outcomes for any services and activities provided using *Local Activity Funds*;
  5. Continue to track funds by funding streams per the Secretary of Labor's approval letter; and,
  6. Follow OETI #11-2003, Change 1 (State Procurement and Contract Policy).
- G. The designation of funds to be used for *Local Activity Funds* may only be made from Program Year 2007 and Fiscal Year 2008 formula funds and Program Year 2008 and Fiscal Year 2009 formula funds.
- H. If a LWIB has already transferred funds between the adult and dislocated worker programs in accordance with WIA Section 133(b)(4) for the current year, up to 25 percent will be applied to the remaining balances in each of these funding streams.
- I. Copy of Board-approved minutes showing approval of the transfer of funds must be submitted with your request.
- J. The local board must make copies of the Local Plan Amendment available for public comment through such means as public hearings, local news media or local websites. The general public must have access to the Local Plan Amendment and has 30 days from the date of publication to comment on the proposed amendment. The Local Plan Amendment, with LWIB approval, may be submitted to the state for approval at the same time the amendment is made available for public comment. Any comments received in disagreement with the Local Plan Amendment must be submitted to the state.

**EXPIRATION DATE:** This waiver is scheduled to expire on June 30, 2009

**INQUIRIES:** If you have any questions, please contact Tami Decker at (405) 962-7595 or at [tdecker@oesc.state.ok.us](mailto:tdecker@oesc.state.ok.us)

**ACTION:** Please share this information with appropriate staff.