

Public Law 105-220

Workforce Investment Act of 1998 (WIA)

General Program Requirements

Section 195

Except as otherwise provided in this title, the following conditions are applicable to all programs under this title:

(1) Each program under this title shall provide employment and training opportunities to those who can benefit from, and who are most in need of, such opportunities. In addition, efforts shall be made to develop programs, which contribute to occupational development, upward mobility, development of new careers, and opportunities for nontraditional employment.

(2) Funds provided under this title shall only be used for activities that are in addition to those that would otherwise be available in the local area in the absence of such funds.

(4) On the job training contracts under this title shall not be entered into with employers who have received payments under previous contracts and have exhibited a pattern of failing to provide on-the-job training participants with continued long-term employment as regular employees with wages and employment benefits (including health benefits) and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

(5) No person or organization may charge an individual a fee for the placement or referral of the individual in or to a workforce investment activity under this title.

(6) The Secretary shall not provide financial assistance for any program under this title that involves political activities.

(7)(A) Income under any program administered by a public or private non-profit entity may be retained by such entity only if such income is used to continue to carry out the program.

(7)(B) Income subject to the requirements of subparagraph (A) shall include - -

- (i) receipts from goods or services (including conferences) provided as a result of activities funded under this title;
- (ii) funds provided to a service provider under this title that are in excess of the costs associated with the services provided; and
- (iii) interest income earned on funds received under this title.

(9)(A) All education programs for youth supported with funds . . . shall be consistent with applicable State and local educational standards.

(9)(B) Standards and procedures with respect to awarding academic credit and certifying educational attainment in programs conducted under such chapter shall be consistent with the requirements of applicable State and local law, including regulation.

(10) No funds available under this title may be used for public service employment except as specifically authorized under this title.

NONDISCRIMINATION

Section 188 (a)(1)

Federal financial assistance. - - For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of disability under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded or otherwise financially assisted in whole or in part under this Act are considered to be programs and activities receiving Federal financial assistance.

Section 188 (a)(2)

Prohibition of discrimination regarding participation, benefits and employment. - - No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972), national origin, age, disability, or political affiliation or belief.

Section 188 (a)(3)

Prohibition on assistance for facilities for sectarian instruction or religious worship. - - Participants shall not be employed under this title to carry out the construction, operation, or maintenance of any part of any facility that is used or to be used for sectarian instruction or as a place for religious worship (except with respect to the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity providing services to participants).

Section 188 (a)(4)

Prohibition on discrimination on basis of participant status. - - No person may discriminate against an individual who is a participant in a program or activity that receives funds under this title, with respect to the terms and conditions affecting, or rights provided to, the individual, solely because of the status of the individual as a participant.

Section 188 (a)(5)

Prohibition on discrimination against certain non-citizens. - - Participation in programs and activities or receiving funds under this title shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States.

Identification of Eligible Providers of Training Services

Section 122 (a)(2)

Providers. - - Subject to the provisions of this section, to be eligible to receive the funds, the provider shall be - -

- (A) a postsecondary educational institution that - -
 - (i) is eligible to receive Federal funds under title IV of the Higher Education Act of 1965 and;
 - (ii) provides a program that leads to an associate degree, baccalaureate degree, or certificate;
- (B) an entity that carries out programs under the Act of August 16, 1937 (commonly known as the “National Apprenticeship Act”) or
- (C) another public or private provider of a program of training services.

Section 122(b)(1)(2)

(1) Postsecondary educational institutions and entities carrying out apprenticeship programs

- - To be initially eligible to receive funds as described in subsection (a) to carry out a program described in subparagraph (A) or (B), respectively, of subsection (a) (2), a provider described in subparagraph (A) or (B), respectively, of subsection (a) (2) shall submit an application, to the local board for the local area in which the provider desires to provide training services, at such time, in such manner, and containing such information as the local board may require.

(2) Other eligible providers

- -Each Governor of a State shall establish a procedure for use by local boards in the State in determining the initial eligibility of a provider described in subsection (a) (2) (C) to receive funds as described in subsection (a) for a program of training services, including the initial eligibility of - -

- (i) a postsecondary educational institution to receive such funds for a program not described in subsection (a) (2) (A); and
- (ii) a provider described in subsection (a) (2) (B) to receive such funds for a program not described in subsection (a) (2) (B).

Section 122 (c) (1)

Procedure - - Each Governor of a State shall establish a procedure for use by local boards in the State in determining the eligibility of a provider described in subsection (a) (2) to continue to receive funds as described in subsection (a) for a program after an initial period of eligibility under subsection (b), (referred to in this section as “subsequent eligibility”).

The Eligible Training Provider List

INITIAL ELIGIBILITY

An entity, organization or individual may qualify as an Eligible Training Provider in two instances: (1) automatic eligibility; (2) established eligibility.

(1) The Workforce Investment Act extends **automatic eligibility** to a provider that is:

- a postsecondary educational institution that is eligible to receive Federal funds under title IV of the Higher Education Act of 1965 and provides a program that leads to an associate degree, baccalaureate degree, or certificate; or
- an entity that carries out programs under the Act commonly known as the National Apprenticeship Act.

Providers that meet these criteria must submit an application to the local board that contains:

- ◇ a description of training services to be provided; and
- ◇ the duration and cost of program to be conducted.

(2) Public or private providers of a program of training services who wish to **establish initial eligibility** and receive funds as determined under the WIA shall submit an application to the workforce board. Included in this category are:

- ◇ post-secondary educational institutions that wish to receive training funds for programs not described in section 122 (a)(2)(A); and
- ◇ providers of service under the National Apprenticeship Act that wish to receive training funds for programs that are not currently registered with the Bureau of Apprenticeship and Training.

Providers that meet these criteria must submit an application to the workforce board that contains:

- ◆ a description of the training services to be provided;
- ◆ the duration and cost of the program;
- ◆ program design information must demonstrate a need for such training services to be provided in the local area where training is being held; and
- ◆ previous performance information that will include statistical information that demonstrates the provider's ability to deliver services effectively.

After the workforce board has reviewed the applications and it has been determined that all criteria has been met, a list of eligible applicants will be created and submitted to the Virgin Islands Department of Labor, the administrative entity of the Workforce Investment System. The list will include program design, performance and program costs information on each eligible provider.

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The Virgin Islands Department of Labor will:

- ◆ Verify all information provided by each applicant;
- ◆ Compile a single list of eligible providers and disseminate such list to the One-Stop delivery system;
- ◆ Maintain the provider list.

Approved eligible providers may provide services for a period not to exceed one year from the date of approval, except as otherwise noted.

SUBSEQUENT ELIGIBILITY

ALL providers of a program of training whether determined automatically eligible or having established initial eligibility, are subject to subsequent eligibility determination.

Providers of training services will be required to provide all information required for initial certification, plus:

- 1) The percentage of WIA participants who have completed the program and have been placed in unsubsidized employment.
- 2) The percentage of WIA participants who are still in unsubsidized employment six months after the first day of employment.
- 3) The hourly wages of WIA participants six months after the first day of employment.
- 4) The rate of licensure or certification, attainment of academic degree or occupational skills credentials or other measurable skills.
- 5) Other verifiable program-specific information as may be locally determined.

REMOVAL FROM THE ELIGIBLE PROVIDER LIST

- A training provider may be denied re-certification for a training program by the Department of Labor if it is determined that:
 - The provider does not meet the expected levels of performance.
 - The training program does not support the demand occupations for the area
 - Other requirements for training providers of the Workforce Investment Act have not been met.
- The State Board may remove a training provider from the approved provider list if it is determined that:
 - The provider of training intentionally supplied inaccurate information.
 - The provider of training substantially violated any requirement under the Workforce Investment Act.

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- An agency submitting an application that was automatically eligible due to its being a post-secondary educational institution or carrying out programs under the National Apprenticeship Act with the requirements set forth in Section 122 (a)(2), may not be removed from the Eligible Providers List. For such an agency, a specific program may be removed for non-performance, but the agency remains eligible.

Upon determination that an application by a training provider does not meet the eligibility requirements, a notice denying eligibility will be issued. The notice of denial will be mailed to the training provider at the address listed on the application and to the attention of the contact person identified on the application. The denial notice shall also clearly state that the training entity has the right to appeal the decision within fourteen (14) calendar days of the date that the denial notice is mailed.

APPEALS PROCEDURE

A provider of training services, who is removed from the Eligible Provider List, may appeal the decision by following the procedures listed below:

- 1) A written request for a hearing should be made to the State Board
- 2) The State Board will conduct a hearing within thirty (30) calendar days of receiving the request; at which time the provider may present all information that shows cause for eligibility to be reinstated.
- 3) The State Board will give its decision within fifteen (15) calendar days of the hearing.
- 4) If the provider of service finds the decision of the State Board unacceptable, an appeal may be made in writing to the Governor.
- 5) The decision of the Governor is final.

The Administrative Agency (VI Department of Labor), may offer corrective action or technical assistance to a provider of training service who has been removed from the Eligible Provider's List for non-performance. Corrective action or technical assistance may also be offered to providers of training services that fail to comply with the Act. Providers receiving corrective action assistance or technical assistance may reapply for the Eligible Providers List after the period of one (1) year.

The eligibility of a provider of training service determined to have intentionally supplied inaccurate information, will be terminated for a period of time not to exceed two (2) years.

INDIVIDUAL TRAINING ACCOUNTS

WIA mandates that all training services (except for on-the-job training and customized training) be provided through the use of Individual Training Accounts (ITA) and that eligible individuals shall receive ITA's through the one-stop delivery system.

The One-Stop system is the basic delivery system for adult and dislocated worker services. Through the One-Stop system adults and dislocated workers in need of training will be provided an Individual Training Account and access to lists of eligible providers of training. Participants may purchase training services from eligible service providers they select in consultation with their case managers. *Out of school and older youth are now permitted to participate in eligible training programs purchased through the use of Individual Training Accounts.*

Customer Choice: Individual Training Accounts allow customers to choose the provider of training service based on the specific information (prerequisites, costs, location, duration, certification received) listed by the provider.

- The *amount* of the Individual Training voucher shall not exceed \$3,800.00, except in the instance of an **approved** specialized or technical program.
- The *duration* of an Individual Training voucher shall not exceed twelve (12) months, except in the instance of an **approved** specialized or technical program.

Linkage to occupations in demand: Training services shall be directly linked to occupations that are in demand in the local area, or in another area to which an adult or dislocated worker receiving such services is willing to relocate.

EXCEPTIONS

- Providers of *Customized training* or *On-the-Job* training are not subject to the Individual Training Accounts policy.
- Also, there are certain circumstances that allow for mechanisms other than Individual Training Accounts to be used; specifically:
 - A Board decision that determines that there are an insufficient number of eligible providers in the local area to accomplish the purpose of the system; and
 - There is a training program of *demonstrated effectiveness* offered by a faith or community-based organization or other private organization to serve *special participant population* that face multiple barriers to employment.

On-the-Job Training means training by an employer that is provided to a paid participant while engaged in productive work in a job that:

- ◇ Provides knowledge or skills essential to the full and adequate performance of the job;

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- ◇ Provides reimbursement to the employer on a sliding scale based on the size of the employer's business;
- ◇ Is limited in duration as appropriate to the occupation for which the participant is being trained.

Customized training is training that is:

- ◇ Designed to meet the special requirements of an employer;
- ◇ Conducted with a commitment by the employer to employ individuals on successful completion of the training; and
- ◇ For which the employer pays on a sliding scale based on the number of employees for up to fifty percent (50%) of the cost of the training.

Special participant populations are defined as:

- Individuals with substantial language or cultural barriers;
- Offenders
- Homeless individuals; and
- Other hard-to-serve populations – as determined by the Governor.

Criteria to describe programs of *demonstrated effectiveness* may include:

- Financial stability;
- Demonstrated performance; and
- Local area demand occupation.

Priority Populations:

- Veterans
- Low Income
- Public Assistance

PAYMENT POLICY

Please note that payment for WIA customers is based on their attendance and performance throughout the program. Payments are made at midpoint and ending of the program, based on data submitted by the provider and verified by the monitoring unit.

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PARTICIPANT ELIGIBILITY

In order for a participant to be eligible for paid services under the Workforce Investment Act he/she must meet circumstances consistent with either Adult or Dislocated Worker criteria.

All participants must:

- Be 18 years of age or older;
- Be a citizen or national of the United States, lawfully admitted permanent resident alien, refugee, asylee, parolee, or other immigrant authorized to work in the United States; and
- Be in compliance with the Military Selective Service Act.

Adult

To be classified as an Adult under the Workforce Investment Act, the participant must meet the following criteria:

- Recipients of public assistance;
- Low income;
- Limited English proficient;
- Disabled;
- Long term unemployed; or
- Basic skills deficient.

Dislocated Worker

To be classified as a dislocated worker under the Workforce Investment Act, the participant must meet the following criteria:

- Has been terminated or laid off or who has received a notice of termination or layoff from employment;
- Is eligible for or has exhausted entitlement to unemployment compensation;
- Was self-employed but is unemployed as a result of general economic conditions;
- Is a displaced homemaker.

ELIGIBLE TRAINING ACTIVITIES

Customers must participate in core and/or intensive services before it is determined that training services are necessary to achieve employment goal. Core and Intensive services may be provided by one or more of the partners of the One-Stop system. **Core services** may include one or more of the following:

- ◇ Eligibility determination;
- ◇ Outreach, intake (which may include worker profiling) and orientation to labor market information and other services available;
- ◇ Initial assessment of skill levels, aptitudes, abilities and supportive service needs;
- ◇ Job search and placement assistance – career counseling when necessary;
- ◇ Provision of employment statistics information; including the provision of accurate information relating to local, regional, and national labor market areas;
- ◇ Provision of performance information and program cost information on eligible providers of training services;
- ◇ Provision of local performance information;
- ◇ Provision of accurate supportive services information including transportation and child care;
- ◇ Provision of information regarding filing claims for unemployment compensation;
- ◇ Assistance establishing eligibility for welfare-to-work activities available in the local area;
- ◇ Follow up services, including counseling.

Intensive services may include one or more of the following:

- ◇ Comprehensive and specialized assessment of the skill levels and services needs;
- ◇ Development of an individual employment plan, to identify the employment goals, appropriate achievement objectives and appropriate combination of services;
- ◇ Group counseling;
- ◇ Individual counseling and career planning;
- ◇ Case management for participants seeking training services;
- ◇ Short-term prevocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills and professional conduct.

Once a customer has exhausted all applicable core and intensive services and the employment goal has not been achieved it may be determined that training services are necessary. The customer may choose a provider of training service in an area of demand based on the Eligible Provider List.

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Eligible Training Activities include:

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| <ul style="list-style-type: none"> ◇ Occupational skills training, including training for nontraditional employment; ◇ Programs that combine workplace training with related instruction, which may include cooperative education programs; ◇ Training programs operated by the private sector; ◇ Skills upgrading and retraining activities; ◇ Entrepreneurial training; ◇ Job readiness training; ◇ Adult education and literacy activities provided in combination with services described; ◇ On-the-job training; ◇ Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training. |
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Priority for intensive and training services shall be given to recipients of public assistance and other low-income individuals or individuals with additional barriers to employment.

Evaluation Factors for Adult/Dislocated Worker Services

Evaluation factors used in awarding grants and weights assigned to each include the following:

REASONABLENESS OF COST	20
PROGRAM DESIGN/CONTENT – a) verifiable assurances that minimum course requirements or prerequisites are realistically commensurate with course applications; b) acquisition of soft or occupational skill; c) presentation of work in a clear and understandable format	30
PROGRAM STRUCTURE – sequentially developmental, catering to the disadvantaged customer who faces multiple barriers to attaining or retaining employment; items to note: total time allotted to course, amount of time per segment, availability of lab time (when applicable), make-up schedule, if necessary	15
LABOR MARKET STATUS – local demand occupation	25
CERTIFICATION – portable, industry or employer recognized certification	10
TOTAL POINTS	100

**NOTE* On applications for Subsequent Eligibility, Performance Information is an additional evaluation factor and weights are adjusted accordingly.*

YOUTH ELIGIBLE PROVIDER SERVICES

Providers of youth activities are not subject to the Individual Training Accounts policy or the Eligible Providers Certification system. Eligible providers of youth activities will be determined by contracts awarded through a competitive process, based on the recommendation of the Youth Council and on the criteria as described in the Youth Transition Plan. An eligible provider list for youth activities will be developed and disseminated throughout the One-Stop system for providers of youth services approved through the competitive bidding process.

Proposals will be required to make assurances that the following are in place:

- ◆ Adequate technical and financial resources;
- ◆ A well defined program design that relates to the needs of the local economy;
- ◆ The ability to meet program design specifications at a reasonable cost;
- ◆ A satisfactory record of past performance; and
- ◆ A satisfactory record of fiscal accountability, organization and operational controls.

The *disqualifying factors* for bidders under the competitive process include:

- ◆ Providers with a history of poor past performance;
- ◆ Providers that fail to establish linkages to local market demands;
- ◆ Providers that fail to demonstrate adequate goals and structure in youth program design.

Evaluation Factors

Evaluation factors used in awarding grants and weights assigned to each include the following:

Labor Market Status – The strength of the occupational area in terms of employment opportunities available, entry-level wages, upward mobility and stability of the industry.	15
Program Design – The relevancy of the program design to the promised outcomes. Type and mix of services as compared with the population to be served.	15
Agency Capability – The agency’s overall capability including experience win serving economically disadvantaged persons, administrative capacity, available resources, demonstrated effectiveness in past training and their placement record.	15
Competency training or transition to unsubsidized employment – Proposed competencies and job training opportunities. Competency training for youth as well as proposed outcomes resulting in youth returning to school.	20
Private sector local educational agency involvement – Private sector and local educational agency involvement in the program design, provision of training materials, assistance in developing work site, instructors, and commitments to hire.	5

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Reasonableness of cost – Reasonableness of the single unit charge in relation to the total program costs and placement expectations.	20
Facilities, staffing, equipment – Accessibility of the training site to participants, the availability of appropriate equipment and the adequacy of the facility and the experience of staff.	5
Youth Services – Ability of program to provide services to youth.	5
TOTAL POINTS	100

Required Youth Program Elements

In order to provide, to eligible youth seeking assistance in achieving academic and employment success, effective and comprehensive activities, providers of youth services shall include a variety of options for improving educational and skill competencies and provide effective connections to employers. A working mix of the following ten elements should be a part of a complete package of services for youth.

- ◆ Tutoring, study skills training, and instruction leading to secondary school completion, including dropout prevention strategies;
- ◆ Alternative secondary school services;
- ◆ Summer employment opportunities directly linked to academic and occupational learning;
- ◆ Paid and unpaid work experience, including internships and job shadowing;
- ◆ Occupational skill training;
- ◆ Leadership development opportunities, which include community service and peer-centered activities encouraging responsibility and other positive social behaviors;
- ◆ Supportive services;
- ◆ Adult mentoring for a duration of at least twelve (12) months, that may occur both during and after program participation;
- ◆ Follow-up services;
- ◆ Comprehensive guidance and counseling.

Youth programs are offered to participants on a year round basis. There is no stand-alone component. Follow up services, for a period not less than twelve (12) months are required for all participants that complete their training regimen and are prepared to exit the system. Follow up activities may consist of school-based activities; leadership development activities, supportive services or work based activities.