

**DIRECTIVE**  
**WORKFORCE INVESTMENT ACT**

Number: WIAD02-13

Date: April 24, 2003  
69:50:jcb:6986

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: DISLOCATED WORKER 25 PERCENT FUND REQUIREMENTS

**EXECUTIVE SUMMARY:**

**Purpose:**

The purpose of this directive is to summarize Workforce Investment Act (WIA, Act) and State of California requirements regarding WIA Dislocated Worker 25 Percent funds.

**Scope:**

This directive applies to Local Workforce Investment Areas (LWIA) and other recipients of WIA Dislocated Worker 25 Percent funds.

**Effective Date:**

This directive is effective on the date of its issuance.

**REFERENCES:**

- WIA Sections 101(9) and (38), 133(a)(2), 134(a)(2)(A), 134(e)(3)(A), 136, and 181(d)(1) and (e)
- Title 20 of the Code of Federal Regulations (Title 20 CFR), Parts 665 and 666, and Sections 663.815, 667.262 and 667.300
- Department of Labor (DOL) Training and Employment Guidance Letters (TEGL) 7-99, 14-00, and 14-00, Change 1
- WIA Directive WIAD02-11, Subject: Title I Eligibility (February 3, 2003)
- WIA Directive WIAD02-12, Subject: WIA Monthly Reporting Instructions (March 11, 2003)
- Information Bulletin WIAB01-121, Subject: WIA Job Training Automation (JTA) Client Forms Handbook (May 22, 2002)

**STATE-IMPOSED REQUIREMENTS:**

This directive contains some State-imposed requirements, which are indicated in ***bold, italic*** type.

**FILING INSTRUCTIONS:**

This directive finalizes WIA Draft Directive WIADD-50, issued for comment on March 14, 2003. Retain this directive until further notice.

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## BACKGROUND:

The WIA provides federal funding to the State of California for workforce investment activities. These activities are provided through State and local workforce investment systems. The stated goals of the Act are increased employment, retention, and earnings of participants, and increased occupational skill attainment by participants so the quality of the workforce can be improved, welfare dependency can be reduced and the State's workforce competitiveness and productivity can be enhanced. The WIA requires the Governor to allocate a majority of the funds via formula to Local Workforce Investment Boards, who have the responsibility for setting local policy and for providing direction for use of the formula allocated funds in the LWIAs. By law, the Governor is allowed to reserve up to 25 percent of the WIA dislocated worker funds allocated to California for Rapid Response and Additional Assistance activities to serve employers and workers affected by mass layoffs, permanent business closures, or natural or other disasters.

This directive highlights the major WIA and State of California requirements related to grants funded with the Dislocated Worker 25 Percent funds. It was prepared by the Employment Development Department's (EDD) Workforce Development Branch to be a helpful tool for local and State program operators as they plan and implement their Dislocated Worker 25 Percent projects. The requirements described herein are based on the WIA and supporting regulations, as well as the DOL guidance on performance and reporting in [TEGLs 7-99](#), [14-00](#), and [14-00, Change 1](#), and additional State requirements.

## POLICY AND PROCEDURES:

### General Provisions

By law, the services described below, funded with 25 percent monies, must be carried out in local areas by the State or by an entity designated by the State, working in conjunction with the local boards and the Chief Elected Officials (CEO) in the local areas.

Two types of grants are allowable under the Dislocated Worker 25 Percent portion of WIA: "Rapid Response" and "Additional Assistance." Each of these grant types have the unique characteristics described below:

- **Rapid Response** activities—planning and delivering immediate services to assist employers and groups of workers affected by mass layoffs, permanent business closures, or natural or other disasters. Typically, these activities involve the provision of information with limited individual intervention. Under these grants, participants are not enrolled in the WIA program.
- **Additional Assistance** to local areas that have insufficient resources to address disasters, mass layoffs or plant closings or other events that precipitate substantial increases in the number of unemployed individuals. The services are provided to individuals. Participants are enrolled in the WIA program.

**Rapid Response**

A. Required Activities

The following activities are required of each grantee that receives funds designated for Rapid Response:

- Immediate and on-site contact with the layoff employer, representatives of the affected workers, and the local community.
- The provision of information and access to unemployment compensation benefits, comprehensive One-Stop Career Center system services, and employment and training activities, including information on the Trade Adjustment Assistance (TAA) program and the North American Free Trade Act (NAFTA)–TAA program.
- The provision of guidance and/or financial assistance in establishing a labor-management committee voluntarily agreed to by labor and management, or a workforce transition committee comprised of representatives of the employer, the affected workers and the local community.
- The provision of emergency assistance adapted to the particular closing, layoff, or disaster.
- The provision of assistance to the local board and CEO(s) to develop a coordinated response to the dislocation event and, as needed, to develop an application for a National Emergency Grant.

B. Allowable Activities

The following activities may be performed by entities receiving Rapid Response grants, ***with prior approval of EDD***:

- In conjunction with other appropriate federal, state and local agencies and officials, employer associations, technical councils or other industry business councils, and labor organizations:
  - (1) Develop prospective strategies for addressing dislocation events, that ensure rapid access to the broad range of allowable assistance,
  - (2) Identify strategies for the aversion of layoffs, and
  - (3) Develop and maintain mechanisms for the regular exchange of information relating to potential dislocations, available adjustment assistance, and the effectiveness of Rapid Response strategies.
- In collaboration with the appropriate State agency(ies), collect and analyze information related to economic dislocations, including potential closings and layoffs, and all available resources in the State for dislocated workers in order to provide an adequate basis for effective program management, review and evaluation of Rapid Response and layoff aversion efforts in the State.
- Participate in capacity building activities, including providing information about innovative and successful strategies for serving dislocated workers, with local areas serving smaller layoffs.

- Assist in devising and overseeing strategies for:
  - (1) Layoff aversion, such as pre-feasibility studies of avoiding a plant closure through an option for a company or group, including the workers, to purchase the plant or company and continue it in operation;
  - (2) Incumbent worker training, including employer loan programs for employee skill upgrading; and
  - (3) Linkages with economic development activities at the federal, State and local levels, including federal Department of Commerce programs.

### C. Prohibited Activities

Funds designated for Rapid Response may not be used for the following activities:

- Encouraging or inducing business relocation
- Employment generating activities
- Economic development activities
- Investment in revolving loan funds
- Capitalization of businesses
- Investment in contract bidding resource centers
- Foreign travel
- Employer outreach and job development activities [Note: As provided in WIA Section 101(38)(E), Rapid Response activities may include assisting local areas in accessing State economic development assistance (with prior EDD approval – see last “bullet” under B, above). However, this does not permit outreach to employers for the purpose of developing individual jobs. That is allowable only under Additional Assistance grants.]
- Other individualized direct services to affected workers

### **Additional Assistance**

The State must reserve an adequate amount of 25 percent funds for Rapid Response activities. The balance may be used to assist local areas that experience increased numbers of unemployed individuals due to natural disasters, plant closings, mass layoffs or other events that precipitate substantial increases in the number of unemployed individuals. These funds are intended for provision of WIA allowable direct services to participants. They may be directed to those areas that do not have sufficient local funds to assist the dislocated workers.

### A. Client Eligibility Under 25 Percent Additional Assistance Grants

1. General – Program operators must verify the following for all individuals served under the WIA program:
  - Right to work in the United States
  - Selective Service registration compliance as it applies to male applicants
  - Age – 18 years of age and older

2. The table below describes the circumstances under which an individual may be considered a dislocated worker.

*“Dislocated worker” means an individual who—*

|  |                   |   |                   |   |
|--|-------------------|---|-------------------|---|
| <p>1. Has been terminated (including voluntary termination) from employment<br/>or<br/>Has been laid off from employment<br/>or<br/>Has received a notice of termination or layoff from employment</p>   | <p><b>AND</b></p> | <p>Is unlikely to return to a previous industry or occupation</p> | <p><b>AND</b></p> | <p>Is eligible for unemployment compensation<br/>or<br/>Has exhausted entitlement to unemployment compensation<br/>or<br/>Has been employed for a duration sufficient to demonstrate attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law</p> |
| <p><b>OR</b></p>   |                   |   |                   |   |
| <p>2. Has been terminated or laid off from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise, <b>OR</b></p>   |                   |   |                   |   |
| <p>3. Has received a notice of termination or layoff from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise, <b>OR</b></p>  |                   |   |                   |   |
| <p>4. Is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days, <b>OR</b></p>   |                   |   |                   |   |
| <p>5. For purposes of eligibility to receive services other than intensive, training, or supportive services is employed at a facility at which the employer has made a general announcement that such facility will close, <b>OR</b></p>  |                   |   |                   |   |
| <p>6. Was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters, <b>OR</b></p>   |                   |   |                   |   |
| <p>7. Is a displaced homemaker and has been dependent on the income of another family member but is no longer supported by that income and is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.</p>   |                   |   |                   |   |
| <p>8. <i>Has voluntarily terminated employment and is receiving or has been determined eligible to receive unemployment insurance compensation, or has subsequently exhausted entitlement to unemployment insurance compensation since terminating employment voluntarily, and is unlikely to return to a previous industry or occupation.</i></p> |                   |   |                   |   |

B. Eligible Employed Worker

An employed worker who meets the general eligibility requirements in Client Eligibility Section A1 above and qualifies as a dislocated worker may receive services with 25 percent funds. A dislocated worker is defined above in Client Eligibility Section A2, with additional guidance provided in the State's WIA Eligibility Technical Assistance Guide (TAG) issued as an attachment to WIA Directive [WIAD02-11](#). The TAG states:

“An eligible dislocated worker remains eligible for assistance after dislocation as long as the individual has not been employed in a job since dislocation that paid a wage defined by the local board as self-sufficient or leading to self-sufficiency or providing more than stopgap employment.”

Please refer to page 21 of the TAG for the State's definition of “stopgap employment.”

**Reporting**

***As stated in the General Provisions and Standards of Conduct, Exhibit BB of the standard subgrant agreement, subgrantees are required to compile and submit reports of activities, expenditures, status of cash and closeout information by specified dates, as prescribed by the Subgrantor (i.e., the State). As required by WIA Directive WIAD02-12, Subject: WIA Monthly Reporting Instructions, dated March 11, 2003, all subgrantees in receipt of WIA 25 Percent funds must provide monthly expenditure and (for Additional Assistance grants) participant reports. Failure to provide monthly financial reports may result in a cash request not being approved. The monthly expenditure and participant reports are to be provided until notified otherwise. Monthly reports are always due the 20th of the month following the report period. The exception is when a quarterly report is due for March, June, September, and December. Please refer to WIA Directive [WIAD02-12](#) for further reporting guidance.***

**Performance Measures**

- A. Rapid Response Grants: The State and the grant recipient will agree on performance measures that are based on the type of Rapid Response activities stipulated in the subgrant. This will allow the State to assess the effectiveness of the Rapid Response efforts.
- B. Additional Assistance Grants: The State and grant recipients will establish performance goals for each grant using the six WIA performance measures specified for dislocated workers in the Act and the regulations (WIA Section 136 and Title 20 CFR, Part 666, respectively). These measures are defined in DOL [TEGL 7-99](#). Goals should be established for all of the performance measures that apply. ***The statewide performance goals will apply unless they are revised***

***during the negotiation process. Any performance goals that are below the statewide goals must be approved by the WIA Management Team in EDD and described in the project narrative portion of the contract, subgrant or interagency agreement.*** Performance data for Additional Assistance grants will apply only to State-level performance and will not apply to local area performance calculations.

***Past performance will be one of the criteria considered for future renewal or for approval of additional funding of a 25 Percent grant.***

### **Follow-up Requirements**

The WIA, the governing regulations and DOL policy guidance encourage and, in some cases, require dislocated worker project follow-up for two primary reasons. First, the WIA encourages long-term intervention and support to assure that individuals placed in employment receive the support necessary to retain employment and gain self-sufficiency. Second, as required by federal reporting requirements, follow-up contacts enable the State and specific projects to maximize performance outcomes by collecting information on the employment status and the post-program educational attainment/credentials of individuals served with WIA funds. The State's JTA system has been designed to allow programs to report client contact information for four quarters after exit to support client tracking and to supplement data in the automated performance reporting system.

- A. Rapid Response Grants: Since these funds do not serve individuals, no follow-up is required.
- B. Additional Assistance Grants: For the purpose of performance measure outcomes, follow-up contacts are mandatory for four quarters after program exit. For the purpose of providing follow-up services, such services must be made available for a minimum period of 12 months to dislocated workers who enter unsubsidized employment. Not all adults and dislocated workers who are placed in unsubsidized employment will want or need such services. However, they must be made available if they are necessary and reasonable to ensure employment retention, wage gains and career progress. Such services could include, but are not limited to:
- Additional career planning and counseling
  - Contact with a participant's employer, including assistance with work-related problems that may arise
  - Peer support groups
  - Information about additional educational opportunities
  - Referral to supportive services available in the community

The type(s) and duration of services must be determined and documented for each individual. As stated in Title 20 CFR, Section 663.815, financial assistance, such as needs-related payments, is not allowable for employed individuals. Section 134(e)(3)(A) restricts needs-related payments to unemployed persons who have exhausted or do not qualify for unemployment compensation and who need payments to participate in training.

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If a grant is established for a term-specific period and is not considered an ongoing grant, the State may relax the follow-up contact requirement. The State and the grant recipient will discuss and establish follow-up requirements for the project. These will be added to the project narrative in the contract, subgrant or interagency agreement.

## **ACTION:**

Please bring this directive to the attention of all staff involved with Dislocated Worker 25 Percent activities.

## **INQUIRIES:**

Please direct any questions about this directive to your assigned State Project Manager or [Regional Advisor](#) at (916) 653-6347.

/S/ BOB HERMSMEIER  
Chief  
Workforce Investment Division