

MASSACHUSETTS

Workforce Investment Act

WIA Communication No. 05-69

Policy **Information**

To: Chief Elected Officials
Workforce Investment Board Chairs
Workforce Investment Board Directors
Title I Administrators
Career Center Directors
Title I Fiscal Officers
DCS Regional Directors for Workforce Integration
DCS Associate Directors
DCS Field Managers

cc: WIA State Partners

From: Susan V. Lawler, Commissioner
Division of Career Services

Jonathan Raymond, President
Commonwealth Corporation

Date: September 15, 2005

Subject: WIA Title I Youth-Related Waiver Authority

Purpose: To transmit the Commonwealth's policy regarding the parameters for implementing the youth-related waivers announced in WIA Communication #05-69 (9/15/05).

Background: The Commonwealth, in conjunction with its strategic plan for Title I of the Workforce Investment Act and the Wagner-Peyser Act for the two-year period, July 1, 2005 through June 30, 2007, requested and was granted approval for the waiver of two regulatory requirements related to servicing WIA title I Youth:

ITAs for Older and Out of School Younger Youth

Per notification from the U.S Department of Labor Assistant Secretary DeRocco, *"The Commonwealth is granted a waiver of the prohibition on the use of ITAs for older and out-of-school youth, at 20 CFR Sec. 664.510, through June 30, 2007. The Commonwealth should ensure that funds used for ITAs are tracked and reflected in the individual service strategies for youth."*

Section 129(c)(2)(E) of the Workforce Investment Act provides that the WIA Title I Youth program include occupational skill training as one of ten required service elements. Section 123 of the Act requires local workforce investment boards to “identify eligible providers of youth activities by awarding grants or contracts on a competitive basis, based on the recommendations of the youth council.” To date, all occupational skill training provided to youth through the Title I youth program has been accomplished via the competitive selection of a service provider.

WIA also provides that eligible individuals who are 18 through 21 years old may participate in both adult and youth programs concurrently. Such individuals must be eligible under the youth or adult eligibility criteria applicable to the services received. Local boards, working through framework service providers and other local program operators, are authorized to determine the appropriate level and balance of youth and/or adult services. Funding, of course, remains in the category for which it was intended – youth services are funded using the WIA youth allocations, and adult services are funded using the WIA adult allocation.

20 CFR Section 664.510 provides that WIA youth *can not be served* using Individual Training Accounts unless the individual is also eligible for training services under the adult or dislocated worker program. Prior to approval of the waiver, an older youth who qualified as an eligible adult or dislocated worker, could only establish an Individual Training Account (ITA) with training funds provided from the *adult* or *dislocated worker* allocation. With the waiver, funds from the local WIA Title I Youth Allocation will be used to establish ITAs for youth participants. If an older youth qualifies as either a Title I eligible adult or dislocated worker a local area may still use adult or dislocated worker funds to establish an ITA for the individual, but careful consideration should be given to utilizing the local allocation of Title I funds in such a manner so as to maximize the level of training resources available to serve the local area’s needs.

In practice, the youth-related waivers granted by USDOL permit the use of Individual Training Accounts for eligible youth and provides relief to local workforce boards from the requirement to conduct a separate competitive procurement for youth training services. The ITA provider eligibility process satisfies federal and state competitive procurement criteria, allowing eligible youth to select from a statewide list of pre-qualified providers of occupational skill training.

Combined Procurement of Framework and Follow-Up Services

Per notification from the U.S Department of Labor Assistant Secretary DeRocco, “*The Commonwealth is granted a waiver for a competitive procurement of follow up service when follow up services are combined with framework services, at 20 CFR sec 664.450, through June 30, 2007. The Commonwealth should ensure that: 1). A waiver will maximize resources by allowing framework services providers to provide follow-up services to youth, instead of requiring a second competitive bidding process. 2). Decrease state and local paperwork, reduce the need for extra staff needed to track and report the progress of a youth through*

various programs and make available youth case staff to work directly with youth on more substantive training and educational goals.”

Section 129(c)(2)(J) of the Workforce Investment Act provides that the WIA Title I Youth program include follow up services as one of the ten required service elements. Section 123 of the Act requires the local workforce investment boards to “identify eligible providers of youth activities by awarding grants or contracts on a competitive basis, based on the recommendations of the youth council.” 20 CFR sec. 664.405 (a)(4) provides that the competitive selection requirements of WIA section 123, do not apply to the program design framework component, which includes intake, assessment and development of the individual service strategy, when these services are provided by the local grant recipient or fiscal agent.

In practice, the waiver permits local workforce investment boards to combine follow up services, which require a competitive procurement, with framework services that can be procured non-competitively under the limited circumstances in 20 CFR sec. 664.405(a)(4).

Policy:

The Commonwealth has established the following policy parameters for the implementation, by local workforce investment boards, of either or both of the waiver options described above.

Individual Training Accounts for Youth Participants

To administer this waiver applicable to older and out of school youth, the Commonwealth establishes the following policy:

- In order to be eligible for an Individual Training Account (ITA), a youth participant must either be an “Older” youth *or* an out of school “Younger” youth. Each youth’s eligibility for an ITA is to be determined as of the date the ITA is established, regardless of the date of a youth’s determination of WIA eligibility or enrollment.
- Generally, the individual “younger” youth must be 16 years of age or older in order to establish an ITA for training services and to avoid conflict with State law requiring a youth’s participation in the Commonwealth’s education system until the age of 16. For purposes of this educational requirement, participation in an occupational training activity does not qualify as a sanctioned activity of the state’s educational system. However, in cases where a WIA Title I eligible youth under the age of 16 has been formally “discharged” from the local school system and provides documented proof of said discharge from the local school department, an ITA may also be established for the individual as long as he/she is otherwise eligible to participate in basic skills and/or occupational training.

Additionally, neither the waiver of the prohibition against the use of ITAs for youth participants nor any related policy or procedure is to be construed as

providing an incentive to Title I youth participants to leave or forego attendance in an educational program leading to a high school diploma or equivalent, or a higher educational credential (such as an Associate or Bachelor degree).

- A board may continue to select a youth occupational skill provider through a separate competitive process at the local level. The granting of the waiver to allow the establishment of ITAs for eligible youth does not mandate its implementation by any local workforce investment board.
- ITAs established for eligible youth participants will be subject to all restrictions established by the local workforce investment board with regard to ITAs, including restrictions on the maximum ITA amount per individual.
- Local implementation of ITAs for eligible youth cannot be used as an indirect means to transfer funds between the youth and adult programs, which remains prohibited. Instead, local boards and their program providers must exercise judgment in determining the appropriate level and balance of youth and/or adult services. Older youth may still be enrolled as an adult, and receive ITA and other career services through the adult allocation.
- Local implementation of ITAs for eligible youth does not eliminate the need to observe all other youth program requirements. The provision of occupational skill training as a service to an eligible youth must be consistent with the Individual Service Strategy (ISS) and based on a comprehensive assessment. Occupational training is rarely a valid service strategy by itself, and should be supported by an appropriate mix of literacy development, support services, and other strategies.
- Through the establishment of an ITA, eligible youth will have the ability to select from the statewide list of pre-qualified training courses. Local staff should assure that each youth is fully aware of any potential conflicts and/or issues related to coordination with other services and support efforts as called for in the youth's ISS in order to ensure an informed choice of training provider on the part of the youth participant. To maintain and ensure the overall integrity of the service strategy developed on behalf of a youth participant, the local youth framework service provider, the organization providing youth case management, and other organizations providing additional WIA-funded services for the individual must take special care to ensure appropriate coordination with the chosen ITA provider.

Combined Procurement of Youth Framework and Follow-Up Services

To implement the waiver allowing the combined procurement of framework and follow-up services, the Commonwealth establishes the following policy:

- Local Workforce Investment Boards seeking to implement the waiver and combine the procurement of framework and follow-up services must submit

an addendum to its Local Annual Business Plan to the Division of Career Services. The addendum must describe the combined procurement process to be followed and the specific services to be provided and must clearly demonstrate that framework services are being provided in a manner consistent with either Section 123 of the Act or 20 CFR sec. 664.405(a)(4).

The addendum must be signed by all signatories of the Plan (or their designees) and should be submitted via email to Lisa Caissie at lcaissie@detma.org.

- The primary purpose of the waiver is to improve local efficiency and productivity by limiting process redundancy through maximizing the utilization of local resources. Therefore, the primary expectation of the implementation of this waiver will be to demonstrate local cost savings and program efficiencies that result in improved performance. The addendum to the Local Annual Business Plan must clearly describe the anticipated level of cost savings and improved performance.
- In addition, the Commonwealth expects that anticipated cost savings and efficiencies resulting from local implementation of the waiver will enable the local workforce investment system to increase the number of youth to be served. Therefore, the addendum should include a modification of any Local Annual Business Plan performance charts pertaining to Youth enrollment, service levels and/or performance outcomes.
- Prior to implementing this waiver, local Boards should give full consideration to the potential effect on local, established relationships. If the current structure of providing local framework and follow-up services is effectively meeting the needs of the local area, the need to implement the waiver may not be warranted. It is recommended that local Boards specifically consider:
 - ✓ the current level of satisfaction with follow-up service providers, and
 - ✓ the impact that such a change may have on current local partnerships.
- Allowing the combined procurement of follow-up services through a non-competitive process (in the case of framework and follow-up services being conducted through either the local grantee or fiscal agent) does not relieve local areas from the requirement to competitively procure other services and make them available to participants at a level commensurate with the needs of youth in the local area.
- Local boards must ensure that the performance of follow-up services is consistent with program guidance provided in Training and Employment Guidance Letter # 18-00 Program Guidance for Implementation of Comprehensive Youth Services Under the Workforce Investment Act [Section (6)(E)] regarding follow-up services.
- The granting of the waiver to combine the procurement of framework and follow-up services does not mandate its implementation by any local workforce investment board. Local boards may continue to procure framework and follow-up services independently, in a manner consistent with Section 123 of the Act.

Action

Required: Please assure that all appropriate individuals in your workforce investment area are notified of this policy and that any local implementation of one or both of the waivers is conducted in a manner consistent with content of this communication.

Effective: Immediately

References: The Workforce Investment Act of 1998; Training and Employment Guidance Letter # 18-00 [Section (6)(E)]; July 7, 2005 correspondence to the Governor from USDOL announcing the disposition of the Commonwealth's waiver submission; WIA Communication 05-68 (9/15/05).

Inquiries: Please email all questions to PolicyQA@detma.org. Also, indicate Issuance number and description.

Filing: Please file this in your notebook of previously issued WIA Communication Series Issuances as #05-69.