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Office of Workforce Development

Louisiana State Policies

Program Plans and Operations

Effective Date: January 1, 2009

Workforce Development Policy: Number 20 Addendum 1

Subject: WIA Certification Process for Eligible Training Programs/Providers (Subsequent Eligibility)

Background:

The purpose of this addendum to the current policy is to provide guidance in the continued implementation of the Workforce Investment Act. (WIA). It is intended to inform local workforce investment areas (LWIAs), training providers and other stakeholders about the certification process and procedures that must be utilized in order to include training programs/providers on the Statewide Eligible Training Provider List (ETPL), effective January 1, 2009 through December 31, 2009. Local areas are requested to widely distribute copies of this instruction to service providers, individuals, and partners within your area. It is also available on Louisiana Workforce Commission's (LWC) website [http://www/LAWORKS.net](http://www.LAWORKS.net), Workforce Development tab – Training - Eligible Training Provider Information Certification Process for Eligible Training Providers.

USDOL has granted Louisiana a waiver of the provisions of WIA Section 122(2) regarding the requirements for eligible training provider subsequent eligibility based on performance data and allows the state to use the initial eligibility determination of WIA Section 122 (b). Under this waiver the state is able to provide an opportunity for training providers to re-enroll and be considered as initially eligible training providers. The following policy addendum outlines the application of this waiver to current ETPL list procedures for existing and new training programs.

Policy:

Section 663.515 of the WIA Federal Regulations defines the process for initial determination of provider eligibility.

1. Programs eligible under Title IV of the Higher Education Act of 1965 (HEA) and apprenticeship programs registered under the National Apprenticeship Act (NAA) and the providers of such programs may apply following the process outlined in this policy and be considered as initially eligible training providers. Utilizing the waiver, programs that submitted applications and were approved during 2008 and were placed on the State ETPL will continue eligibility through December 31, 2009. All programs eligible under Title IV of the HEA or registered under the NAA that are not currently on the ETPL must follow the application process outlined below in order to qualify for consideration to be included on the ETPL.
2. Programs not eligible under title IV of the HEA or registered under NAA must apply following the process outlined in this policy. Programs that were approved during 2008 and were placed on the State ETPL will continue eligibility through December, 31, 2009. All programs not eligible under title IV of the HEA or registered under the NAA and not currently on the ETPL must follow the application process outlined below in order to be included on the ETPL.

Overview:

The WIA strategy is designed to enhance customer choice through a system of Individual Training Account (ITA) vouchers, while assuring program quality through a provider certification system. The intent of the WIA is to empower individuals by allowing them to choose the program of training or education they need, giving them the information to make informed decisions, while increasing accountability and quality among providers. The training provider list, therefore, should include as many training providers as possible with associated performance data. This should result in a competitive market designed to give customers the best choices for training, as well as the opportunity to receive premium services and information that will lead to a strong provider marketplace. However, the decision to enroll participants in particular occupations/programs is determined by the LWIA. Each Local Workforce Investment Board (LWIB) should determine in which demand occupations to invest scarce WIA training dollars based on their local/regional economy. Use of training through the ETPL should be incorporated into the cohort strategy under LWC's Integrated Service Delivery Model.

WIA mandates that the LWIBs, in conjunction with the Louisiana Workforce Commission, identify training service providers whose performance qualifies them to receive WIA Title 1-B funds to train job seekers. During Calendar Year 2009, designation as an Eligible Training Provider is based on the initial determination of provider eligibility as outlined in section 663.516 of the Federal Regulations. This policy addresses eligibility for training providers, the training provider list, and the appeal process.

Who qualifies as a training provider?

The following types of providers may apply for program certification/re-certification of training services:

- Post-Secondary educational programs that are (a) eligible to receive funds under Title IV of the Higher Education Act of 1965 and (b) provide a program that leads to an Associate Degree, Bachelor's Degree or Certificate;
- Post-Secondary educational institutions seeking training funds for a program(s) that does not lead to an associate or baccalaureate degree, certification, or is not funded under Title IV of the Higher Education Act of 1965;
- Public and Private providers of a program of training services, which includes entities such as some vocational-technical schools, community based organizations (CBO's), private training companies, labor organizations, employer organizations;
- Entities that carry out programs under the National Apprenticeship Act of 1937. These include universities, colleges, some community colleges, some vocational-technical colleges, some proprietary schools, and apprenticeship programs registered with the Bureau of Apprenticeship Training, U.S. Department of Labor;
- Apprenticeship programs wishing to receive training funds for a program not registered with the Federal Bureau of Apprenticeship Training;
- A local WIB that has applied for and been granted a waiver by the Governor as outlined in Section 117(f)(B) of the Act.

Please note: "Proprietary schools" must be licensed or determined exempt from licensure through the Louisiana Board of Regents. A "proprietary" school means any business enterprise operated for a profit or on a nonprofit basis which maintains a place of business within this state, or which sells or offers for sale any courses of instruction in this state.

What types of training services are eligible?

Training services is a category of offerings that local boards are responsible for providing to adults and dislocated workers under WIA. The broad array of training services may include occupational skills training, on-the-job training, job-readiness training, adult education and literacy activities, cooperative education programs, training programs operated by the private

sector, skill upgrading and retraining, entrepreneurial training, and customized training conducted by an employer. However, the occupational training services that may be obtained through the use of an ITA may not be so extensive. The selection of a program of training services must be directly linked to the employment opportunities either in the local area or in another area to which the individual is willing to relocate. Furthermore, training should be limited to demand occupations as determined by the local regional area. LWIB should determine in which demand occupations to invest scarce WIA training dollars based on their local/regional economy. Use of training through the ETPL should be incorporated into the cohort strategy under LWC's Integrated Service Delivery Model. Demand occupations for each regional labor market area have been incorporated into the application process. For more information on demand criteria, please refer to the policy on defining occupations in demand for the purposes of WIA. This policy is available at <http://www.LAWORKS.net>, Workforce Development tab – “Defining Occupations in Demand.”

A program of training as defined in the WIA Final Regulations (Sec 663.508) is one or more courses or classes that, upon successful completion, leads to:

- 1) A certificate, diploma, associate degree or bachelor's degree;
- 2) A competency or skill recognized by employers; or
- 3) A training regimen that provides individuals with additional skills or competencies generally recognized by employers.

Stand-alone programs such as job readiness, basic skills, career exploration, and reading literacy programs will not be considered as training programs eligible for ITAs. Educational programs that are not occupational specific and are less than 90 days in duration are considered to be WIA intensive service activities. These programs provide instruction wherein the knowledge obtained can be used in many different jobs and are therefore not industry or job specific. They are designed to provide participants with short-term skill upgrade assistance to enable them to become job ready or advance up the career ladder. Examples of these types of programs include keyboarding computer services, STCW (Standards of Training and Certificates of Watch Keeping) certification or OSHA certifications. This exception does not include short-term training programs for specific occupations such as nursing assistant, phlebotomist and truck driving. If you have any questions concerning whether a particular program meets this criteria please contact your Program Advisor. In addition, commercially available off the shelf skill refresher programs designed to assist individuals who have completed training but need courses of study to renew their license are considered to be WIA intensive service activities. Examples of these types of programs include RN or LPN refresher courses.

Such programs do not need to be certified for inclusion on the statewide ETPL, but must follow local WIA procurement procedures. These programs will be included in the Training Provider section of the Louisiana Virtual One Stop system. These programs are exempt from the ETPL performance requirements, however, providers must still submit their most recent enrollment information in the required format and local programmatic performance should be considered as part of the procurement process.

What is the application process for training providers?

The LWIBs will be responsible for notifying entities in their area of the opportunity to apply for status as approved training providers. At the discretion of the LWIB, it may also solicit training providers from outside the LWIA. This solicitation may be done through a combination of direct mailings, newspaper notices, and other appropriate means. The LWIB will be responsible for ensuring that the training providers have access to the application for certification and to a list of demand occupations for its area. The demand occupation list is important because WIA requires training funds to be used to train people

for demand occupations. The demand occupation list contains information for the training entities regarding where training funds should be used. Prospective training providers will be required to submit an application for each individual program or course of study to be offered. NOTE: **Programs**, not providers, for each physical location are certified through this process. Potential training providers must submit an application to the LWIB for each course of study or program being proposed, including cost information on each course or program.

Louisiana has implemented a single statewide internet-based application to be used by all training providers seeking approval by the LWIBs to provide WIA Title 1-B funded training in their local area. All potential training providers **must** complete an application through the on-line Consumer Reports System (CRS) section of the LWC website at <http://voshost.com>. Applications will be reviewed by the LWIB. Those training providers that do not currently have data entry access to the CRS should contact LWC's Office of Occupational Information Services at (225) 219-7760 or email tperkins@lwc.la.gov to obtain the necessary security access. This statewide, standardized system eliminates duplication and provides uniformity in the provider information gathered for the statewide list. Each training provider will complete one single application containing all required information on the training institution and one on each program being proposed to receive WIA training funds. In addition to the application, each provider must submit required student data as outlined in the "Student Record Layout" available on LWC's website under Workforce Development – Training -Eligible Training Provider Information. High school students, prisoners and non-degree seekers are excluded from said data. A non-degree seeker is defined as an individual who is enrolled for a single course without intention of completing a program.

The data submission must include the signed Student Data Certification Statement also available on LWC's website under Workforce Development – Training -Eligible Training Provider Information. As part of the certification process, the state will verify through the Louisiana State Board of Regents, a proprietary school's licensure status. Applications **will not** proceed through the certification process until this verification has been completed. If you have any questions regarding licensure status, please contact Carol Marabella at (225) 342-4253, carol.marabella@la.gov or at the following address:

Louisiana State Board of Regents
Proprietary School Section
P.O. Box 3677
Baton Rouge, LA 70821-3677

How often do training providers need to be certified?

In order to remain eligible to provide training services, service providers must submit an application and meet performance levels on an annual basis. This re-certification process will verify that the training provider is: 1.) still offering the program, 2.) wishes to continue the program's eligibility to receive WIA training dollars, 3.) has consumer information in Louisiana's Virtual One-Stop System that is accurate, and 4.) has provided most recent performance data. Applications can be submitted beginning October 1 of each calendar year for consideration to be included on the ETPL for the beginning of the following calendar year. All performance data will be calculated using the state SCORECARD system and its required elements. Training providers will be eligible to apply throughout the year. As new programs are submitted and approved throughout the year, the statewide ETPL will be updated on an ongoing basis. If the program is found to be ineligible for the statewide ETPL, the LWIB will cease to approve additional ITAs for that program until the program meets minimum eligibility requirements. As outlined above, for calendar year 2009, programs currently on the 2008 ETPL will be reenrolled; however, the LWC will continue to update performance on all programs in order to provide consumers with the most current information of program success.

What is the status of ITAs issued for programs no longer on the ETPL?

Students already enrolled in these program(s) will be permitted to continue even though the program may not now be on the approved eligible training provider list. This is a prudent use of WIA dollars since the participant(s) could be adversely impacted if they are not allowed to continue and without other alternative programs, the money initially spent would be wasted. Additionally, because of the travel and transportation problems, participants might not find other programs in the same field available on the current eligible training provider list. This provision does not apply to programs/institutions removed from the ETPL due to violations of the WIA law and regulations. This provision does not apply to students who have been issued an ITA by the WIA Title I program operator under the prior year's ETPL, but have never been enrolled and **attended** the program in the previous session. The LWIA should assist these students in identifying alternative training provider programs on the ETPL.

Geographic Requirements for Provider Certification: Where to Apply?

- **In-state Training Providers-**

WIA requires providers to apply to the local board in each area in which the provider desires to provide training services. To avoid placing undue burden on the LWIBs for duplicative approval, an application will be considered by the applicable LWIBs within the regional labor market area (RLMA) in which the program is geographically located. Clients with ITAs from any local area may attend a program, once certified and included on the statewide ETPL. This list is available through Louisiana's Virtual One-Stop System (LAVOS) at <http://www.LAWORKS.net>. Either register with the system or access it through the Education and Training link. Either click on "Training Provider" to access the list by school or "Training Program" to access the list by program.

- **Out-of-state Training Providers-**

If a program has already been certified by the state in which the program is physically administered, these programs will be accessible to Louisiana participants. Louisiana currently has such an agreement with Mississippi.

- **Distance Learning-**

The provider of a program that is offered through distance learning will apply to the RLMA from which it anticipates receiving the most students. For subsequent re-certification, the provider will apply to the RLMA from which it received the most WIA Title 1-B participants.

How long is the Review Process?

Upon determination by a LWIB that a complete application meets the eligibility requirements in the WIA, the LWIB will record its approval or disapproval of the application, including the reason(s) it was rejected. (See section "Under what conditions will a training provider be denied" for local process for rejecting an applicant.) A determination must be made no later than 60 days from receipt of the application by the LWIB. Training programs/providers will appear on the statewide ETPL of certified training programs after LWC verifies the eligibility, or 30 days have elapsed, whichever occurs first. LWC will compile and publish the statewide list through LWC's Louisiana Virtual One-Stop System (LAVOS).

What are the State Minimum Performance Standards for Certification/Re-Certification?

The State of Louisiana is required by WIA to set minimum performance standards for LWIBs to use in certifying training programs. Utilizing the waiver granted by USDOL, the federal law specifies the performance measures to be utilized by the state and requires that each new program (not on the calendar year 2008 ETPL) meet the state-imposed minimum performance standards in order to remain on the

statewide ETPL. The Louisiana Workforce Council has established the state minimum performance levels, as indicated below.

Minimum Performance Standards for WIA Calendar Year 2008 and 2009:

- 1) **Program Completion Rate (state minimum performance level: 30%)**
The total number of individuals completing the applicable program divided by the total number of individuals exiting the program (completers and non-completers).
- 2) **Employment Rate: (state minimum performance level: 50%)**
The number of all exiting from the applicable program that obtained unsubsidized employment in the first quarter subsequent to exiting the program, divided by the total number of exiting in the reporting period.
- 3) **Wages at placement: (state minimum performance level: \$8.00)**
The average wage expressed as an hourly rate, of all individuals participating in the applicable program that obtained unsubsidized employment.

In an effort to promote quality training, the Louisiana Workforce Commission has approved a state minimum wage at placement performance level of \$8.00 an hour for programs providing training funded through WIA during calendar year 2008. However, to ensure that adequate training opportunities are available for all job seekers that receive WIA Title I training dollars, the WFC has authorized each LWIB to approve programs that offer training in demand occupations in their region below \$8.00 an hour. Each LWIB must determine if these training programs that lead to employment in demand occupations are Pell eligible, non-credit or registered apprenticeship and are essential to the economy in their region. If the LWIB determines that specific training programs below \$8.00 wages at placement should be included on the ETPL, the LWIB Director must contact OWD's MIS Director to ensure these programs are included on the ETPL. Each LWIB must document the rationale for inclusion of each program below \$8.00 an hour wage at placement on the ETPL. Inclusion of a program on the ETPL only signifies that the program is eligible to receive WIA funding, enrollment of participants into a specific training program is a decision of the LWIA based on the job seeker's skills, interests and abilities, the occupations relationship to career ladders/lattices and the LWIB's determination of which demand occupations to target with their limited WIA resources.

The requirement for performance data may be waived by LWC for new providers only, upon a show of good cause. A "new program" has been defined by the Louisiana Workforce Commission as a program that did not exist in the previous year for a unique training provider, Classification of Instructional Program (CIP) code and degree type. These programs would be exempt from meeting eligibility performance until such time as the training cycle has been completed and performance data compiled based on the timeline established for reporting to LWC.

- a) A "new Program" will be required to submit performance data for the first year in which adequate performance of program graduates is available. (The reporting timeline would include the end of a training cycle plus the necessary time it takes to gather and process the performance data.)
- b) Existing private and non-private training providers that are applying for eligibility for the first time and have not previously collected individual records based on Social Security Numbers, shall also be considered "new programs" for the purposes of this policy.

All reasons for requesting a waiver of the performance data requirements must be adequately documented. The training provider must provide detailed justification for missing or incomplete data necessary to calculate the performance measures. Even if the program is exempt from performance, the most recent enrollment information must be submitted in the required format. Any waiver request should be submitted to LWC's Office of Workforce Development- Deputy Director at (225) 219-7692.

Under what conditions will a training program be denied?

Upon determination by a LWIB that a complete application received by the LWIB does not meet the eligibility requirements (as set forth in the WIA, Public Law 105/220, Final Regulation dated August 11, 2000 or state policy), the LWIB shall issue a determination denying (denial notice) the application within 30 days of its receipt. A separate denial notice will be required for each training program being denied. Such denial notice shall be delivered by certified mail, return receipt requested, 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 provider has the right to appeal the LWIBs decision within 30 days of the date the denial notice is received. The training provider's appeal rights are outlined below.

A training provider may be denied certification for a training program for the following reasons:

- The application is not complete;
- Performance data is not included with the application; (*Training providers must submit the required student information to LWC so that the performance calculations can be incorporated into the CRS.*)
- Performance data does not meet state minimum standards;
- Any requirement for training providers listed under the WIA or established by state policy has not been met.

The state (LWC – Office of Workforce Development), upon receipt of the LWB training provider/program list, and after appropriate evaluation of such lists, shall promptly issue determinations to any training provider that the state removes from the LWIB training provider/program list. The State shall follow the same guidelines outlined above for the LWIB training program denial process. If the state does not send a denial notice within 30 days after the electronic notification to LWC of the LWIBs training provider/program list, the training program is automatically approved and will be published in the state approved ETPL, accessible through the Louisiana Virtual One-Stop System.

LWC also has the responsibility to remove training providers/programs from the certified training provider/program list under the following conditions (documented proof that these conditions exist must be provided by the WIB):

- If it is determined that the training provider intentionally supplied inaccurate information; the termination will remain in effect for a minimum of two years.
- If it is determined that the training provider substantially violated any requirement under WIA or state policy;
- For failure to reapply under Subsequent Eligibility Procedures. If training providers do not reapply, they will be removed from the list.

Supplemental Data Provision:

If a training program fails to meet the required minimum level of performance for employment, the training provider will have the opportunity to provide the LWIB with verifiable documentation regarding the employment status of students who exited the program. The employment documentation must be for the calendar quarter immediately following the quarter in which the student exited the program. Providers may only provide supplemental data for the employment measure. No supplemental data is allowed for completion rate or Wage at Placement (USDOL TEGL 17-05). Verifiable documentation includes the following:

- A paycheck stub
- W-2 form
- A written letter from the employer on letterhead stating employment
- Form 1099

After LWC initially processes the “student data” required for the calculation of the performance measures, the application with the required performance measures will be reviewed by the LWIBs within the geographic area in which the program is physically located. Upon determination from the LWIB that the program meets the minimum completion rate and hourly wage rate, but does not meet the employment rate, LWC will send to the training provider the Social Security numbers of those students who could not be found as employed through the Unemployment Insurance Wage record data. The training provider will provide the employment status documentation (acceptable documentation is listed above) directly to the LWIB that has reviewed the application. Upon verification of the documentation, the LWIB will forward the employment documentation to LWC for inclusion in the performance calculations. A copy of the employment documentation must be sent to LWC – Office of Workforce Development, Attn: Deputy Director.

What appeal rights do the training providers have?

Training providers can have a training program denied inclusion on the statewide training provider list by either the LWIB or the State. The training provider has appeal rights in either case.

➤ **Denial of Training Programs by the LWIB**

1. Local Level Review – Training providers will have 30 days from the receipt of the denial notice in which to file an appeal to the LWIB. The request for appeal must clearly identify the program denial that is being appealed and the reason for the appeal. (The list of reasons a training provider may be denied certification may be found on page 6 of this instruction.) Such appeal must be submitted in writing. The LWIB must issue a decision within 60 days after the appeal is filed. The LWIA must provide opportunity for a hearing and send the decision to the training provider by certified mail or hand delivered with a signature verifying receipt. If the training provider is not satisfied with the LWIB decision, an appeal may be filed with LWC.
2. State Level Review- The training provider will have 30 days from receipt of the LWIB decision to appeal to LWC. The appeal must be submitted, in writing, within 30 days of receipt of the LWIBs decision and must include a copy of the LWIBs decision. Within 60 days of receipt of the appeal, an opportunity for a hearing will be provided and a decision will be issued to the training provider and a copy sent to the LWIA. All appeals must be forwarded, in writing, to the following address:

Louisiana Workforce Commission
Office of Workforce Development
Attn: Deputy Director
P.O. Box 94094
Baton Rouge, LA 70804

The decision rendered by LWC is final and may not be appealed to the U.S. Department of Labor.

➤ **Denial of Eligibility, Suspension and/or Termination by the State**

Following issuance by LWC of a denial of eligibility, determination of suspension, or termination of eligibility, the training provider will have 30 days in which to submit an appeal to LWC. Within 60 days of the receipt by LWC of the appeal an opportunity for a hearing will be provided and a decision rendered to the training provider. All appeals must be forwarded, in writing, to the following address:

Louisiana Workforce Commission
Office of Workforce Development
Attn: Deputy Director
P.O. Box 94094
Baton Rouge, LA 70804

The decision rendered by LWC is final and may not be appealed to the U.S. Department of Labor.

What are the exemptions to the Certification Process?

Providers of OJT and/or customized training **ARE NOT SUBJECT** to the requirements outlined above, which requires the submission and certification of an application. The designated Career Solutions Center in each local area will collect performance information and determine whether the OJT and/or customized training providers meet the required performance criteria as outlined in the LWIA local plan.

On-the-Job Training (OJT)

1. Employers in the public and private sectors can provide OJT. A contract shall be developed between the employer and the local program that provides occupational training for WIA participants including the reimbursement amount for participants' wages.
2. The local program shall not contract with employers who have previously demonstrated a pattern of failing to provide OJT participants with continued long-term employment, and with wages, benefits and working conditions equivalent to those provided to regular employees who have worked the same length of time and performed the same type of work.
3. OJT contracts shall be limited to the period of time required for the participants to become proficient in the occupations for which training is being provided. In determining the length of the contract, consideration should be given to the skill requirements of the occupation, academic and occupational skill level of the participant, prior work experience and the participant's individual employment plan.

Customized Training

Customized training is designed to meet special requirements of the employer or group of employers, conducted with a commitment by the employer(s) to employ, or continue to employ, individuals upon successful completion of training.

Under what circumstances may mechanisms other than ITAs be used to provide training services?

Section 20 CFR §663.430(a)(2) of the WIA regulations states that contracts for services may be used instead of ITAs only for OJT or customized training, services to special populations that face multiple barriers to employment, and "when the Local Board determines that there are an insufficient number of eligible providers in the local area to accomplish the purpose of a system of ITAs. The Local Plan must describe the process to be used in selecting the providers under a contract for services."

What is the process for the selection of eligible youth activity providers?

Effective August 4, 2005, LWIBs may use training providers from the Statewide Eligible Training Provider List (ETPL) and may issue Individual Training Accounts (ITAs) to provide training services to older youth and out-of-school youth. LWIBs must still identify eligible providers of younger youth activities based on recommendations of the Local Youth Council and award grants or contracts in accordance with the WIA, TEGL 9-00, Federal Regulations and state/local policy.

If LWIBs have any questions, please contact your state program advisor.

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