

SUBJECT: Recovery Act

REFERENCE: American Recovery and Reinvestment Act of 2009; Workforce Investment Act of 1998; Nebraska Strategic Workforce Investment Plan; TEN 30-08; TEGL 13-08; TEGL 14-08, and Federal Register, Vol. 74, No. 52, Thursday, March 19, 2009.

BACKGROUND: The American Recovery and Reinvestment Act of 2009 (Recovery Act) was signed into law by President Obama on February 17, 2009. It is intended to preserve and create jobs, promote the nation's economic recovery, and assist those most impacted by the recession. It provides the public workforce investment system with unprecedented levels of funding for a number of employment and training programs to help Americans acquire new skills and get back to work. This significant investment of stimulus funds presents an opportunity for the workforce system to demonstrate its full capacity to innovate and implement effective One-Stop service delivery strategies. As Nebraska and its three local areas plan how their One-Stop systems will make immediate use of the Recovery Act funds, we are encouraged to take an expansive view of how the funds can be integrated into efforts to improve the effectiveness of the public workforce system. Recovery Act funds are intended to supplement, not supplant existing WIA Title I State formula funds. This policy is written to provide guidance to the Local Areas as they implement their Recovery Act funded WIA Title I programs.

POLICY: Key Principles

1. Transparency and Accountability

The Recovery Act emphasizes transparency and accountability at all levels. State and local policies and procedures must ensure that all Americans can understand how Recovery Act funds are spent, and to what end. Transparent and frequent communication with the public about the nature of the Recovery Act investments is required. Information on Nebraska's stimulus funding is available at <http://www.Recovery.Nebraska.gov>. The federal government's Website at <http://www.Recovery.gov>, provides information from a national perspective.

2. Timely Spending of the Funds and Implementation of Activities

To meet both the letter and the spirit of the law and fulfill its critical role in U.S. economic recovery, the workforce system must implement the Act expeditiously and effectively, with full accountability of our expenditure of funds. The Act is intended to stimulate the nation's economy and provide quick assistance to those impacted by the economic downturn. States and local areas are expected to move quickly to use the Recovery Act funding, in conjunction with other available funds, to provide career assessments, remedial and occupational training and job search assistance to unemployed workers; help youth access the services they need to pursue education and employment; assist businesses in hiring qualified workers; and other activities that can aid in the recovery of local, regional, and state economies.

3. Increasing Workforce System Capacity and Service Levels

Local areas are expected to fully utilize the additional Recovery Act workforce funding to substantially increase the number of customers served, and to substantially increase the number and proportion of those customers who receive training. These funds must be used to supplement annual WIA/Wagner-Peyser appropriations and must only be used for activities that are in addition to those otherwise available in the local area. To that end, Recovery Act funding is to be spent concurrently with other WIA and Wagner-Peyser funding, and should not be used to replace state or local funding currently dedicated to workforce development and summer jobs. While the law requires states to track and spend Recovery Act funds separately from other WIA and Wagner-Peyser formula funds, the state and local areas are encouraged to strategically align all of their resources to meet both short- and long-term state and regional workforce development needs.

Recovery Act language emphasizes that employment and training funds should be primarily spent on services and training, and the state and local areas are expected to keep administrative expenditures to a minimum. Service delivery strategies should be focused on innovative and effective approaches that both meet the demands of

today's economy and result in an improved workforce system for tomorrow's global economy.

4. Using Data and Workforce Information to Guide Strategic Planning and Service Delivery

Understanding workforce and economic information shall make a significant difference on how effectively Nebraska is able to implement the Recovery Act. Now more than ever, this type of information should be the foundation of workforce development strategies. Workforce information will be particularly critical as the state and local areas seek to identify those businesses and sectors of the economy that are still in need of workers, even in the economic downturn, and those that will begin to grow as the economy recovers. Workforce information is also central to analysis of transferable skills for workers who have lost their jobs in industries and occupations that are not likely to rebound and need to transition to new careers.

Expectations

The following expectations guide the workforce system in successfully meeting the goals of the Recovery Act:

1. Substantial increase in numbers of customers served and receiving training;
2. Investments connected to economic growth objectives through regional sector strategies aligned with economic development, education, including community colleges, business and labor organizations, and other partners for high-growth industries such as green jobs, healthcare and advanced manufacturing;
3. Dual customer focus: supply-side workers and demand-side business needs for skills and talent; and
4. Approaches to reach low income and low skills customers so they may share in economic prosperity, including engaging with community-based organizations.

Priority of Service for Veterans and Eligible Spouses

Local areas must ensure that requirements related to priority of services for veterans and eligible spouses are followed. [Refer to Nebraska's WIA state policy on "Veterans' Priority Provisions" for further clarification.] Basically, veterans and eligible spouses who are members of the Recovery Act priority group must receive the highest priority within that priority group, followed by nonveteran members of the Recovery Act priority group.

Youth Services

Any youth activities under the Workforce Investment Act are allowable activities for the Recovery Act funds. Unless otherwise stated in this policy, the laws and regulations for WIA Youth funds apply to the Recovery Act funds.

Eligibility

Individuals who apply to participate in the Youth program shall meet the WIA criteria as described in section 101(13) in the Workforce Investment Act, with one exception. With respect to the youth activities provided with Recovery Act funds, section 101(13)(A) of WIA shall be applied by substituting “age 24” for “age 21.” This provision was made to allow local programs to reach young adults who have become disconnected from both education and the labor market.

Focus on the Neediest Youth

Consistent with the U.S. Department of Labor’s Employment and Training Administration’s strategic vision for the delivery of services under WIA, local areas are encouraged to focus services on the youth most in need including: out-of-school youth and those most at risk of dropping out, youth in and aging out of foster care, youth offenders and those at risk of court involvement, homeless and runaway youth, children of incarcerated parents, migrant youth, Indian and Native American youth, and youth with disabilities.

Out-of-School Youth Expenditure Requirement

At least 30 percent of Recovery Act funding for the WIA Title I Youth program (except for local area expenditures for administrative purposes) must be used to provide activities to out-of-school youth.

Summer Employment

For purposes of the Recovery Act funds, the period of “summer” will be from May 1 through September 30. “Summer employment” may include any set of allowable WIA youth services that occur during the above referenced summer months as long as it includes a work experience component.

Local areas are encouraged to use a significant portion of Recovery Act funding for youth to operate expanded summer youth employment opportunities during the summer of 2009. Summer employment activities should be designed

to encourage participants to take responsibility for their learning, to understand and manage their career options, and to develop social skills and a maturity level that will help them interact positively with others. This is especially true for at-risk students and high school dropouts, as summer employment may be one of the few opportunities they come across to learn how to enter the world of work. These efforts should rely on developmentally or age-appropriate strategies: what is appropriate for a 24 year-old may not be appropriate for a younger youth. Consequently, the services provided to these youth participants and the work readiness goals set for these individuals should be age appropriate.

Work Experience

Work experiences are planned, structured learning experiences that take place in a workplace for a limited period of time. Work experience is the core component of a summer employment program. Work experiences are designed to enable youth to gain exposure to the working world and its requirements. Work experiences should help youth acquire the personal attributes, knowledge, and skills needed to obtain a job and advance in employment. The purpose is to provide the youth participant with the opportunities for career exploration and skill development and is not to benefit the employer, although the employer may, in fact, benefit from the activities performed by the youth.

Work experiences may be subsidized or unsubsidized and may include the following elements:

- instruction in employability skills or generic workplace skills;
- exposure to various aspects of an industry;
- progressively more complex tasks;
- internships and job shadowing;
- the integration of basic academic skills into work activities;
- supported work, work adjustment, and other transition activities; and
- other elements designed to achieve the goals of work experience.

Local areas need to ensure that participating worksites introduce and reinforce the rigors, demands, rewards, and sanctions associated with holding a job. Local areas

must make an effort to match worksites with participants' interests and goals.

Opportunities for skilled workers in the fields of solar, geothermal, wind power design, and the use of environmentally-friendly building materials will mean increased job opportunities for young people who have had exposure to work experiences that equip them with the appropriate "green" knowledge. Local areas may identify regional and local environmental resources, businesses, and preapprenticeship programs promoting "green" jobs and products to provide youth summer work experiences that prepare them to compete in a "green" economy.

Worksites

Local areas should seek employers that are committed to helping participants receive the experience and training that is required to meet the work readiness goals set for summer employment participants. Worksite supervisors willing to work closely with program staff provide an ideal setting. It is critical that local areas ensure proper worksite supervision in cooperation with both worksite supervisors and program monitors. Employers should be flexible in working with youth who have issues that may cause barriers to employment. Local areas may consider a combination of public sector, private sector, and non-profit summer employment opportunities including project-based community service learning opportunities not conducted at an employer worksite.

Workplace Safety Guidelines

Local areas shall adhere to current workplace safety guidelines and applicable federal/state wage laws. For information and resources on safety and child labor laws, consult <http://www.youthrules.dol.gov/about.htm> and <http://www.osha.gov/teens>. Provisions for wages under the amendments to the Fair Labor Standards Act (FLSA) apply to all youth participants employed under WIA. Current law specifies a minimum wage of \$6.55 per hour effective July 24, 2008; and \$7.25 per hour effective July 24, 2009.

Integration of Work-Based and Classroom-Based Learning Activities

In some situations, local areas may want to complement work experience with classroom-based learning so that the

youth are provided with assistance in developing and refining attitudes, values, and work habits which will contribute to their success in the workplace. In some states, local areas have integrated work experience activities and learning to the point that all learning is acquired on the job. While this is an acceptable model for older youth who already possess the necessary academic skills, it may not be appropriate for younger youth and older youth with educational deficiencies. For these youth, a combination of work-based and classroom-based learning activities may be warranted to provide basic skills instruction, career exploration and life skills training. In these situations, classrooms may be transformed into interactive, work-related environments to complement the work experience activities.

Continued Services Beyond Summer Months

For older and out-of-school youth who are not returning to school following the summer months, local areas should consider work experiences and other appropriate activities beyond the summer months including training opportunities and reconnecting to academic opportunities through multiple education pathways. Additionally, local areas may consider transitional job models that combine short-term subsidized work experience with support services and career counseling. Local areas may also consider co-enrolling such youth in adult training services, particularly youth ages 22-24.

Supportive Services for Youth

Supportive services shall be provided, as necessary and in accordance to local plans, to enable a youth to participate in authorized activities. They may include the following:

- Linkages to community services;
- Assistance with transportation costs;
- Assistance with child care and dependent care costs;
- Assistance with housing costs;
- Referrals to medical services; and
- Assistance with uniforms or other appropriate work attire and work-related tool costs, including such items as eye glasses and protective eye gear.

Local Flexibility

Local areas have program design flexibility in the following areas that may facilitate the implementation of expanded summer employment:

- Because all 10 youth program elements will already be available through existing WIA Youth funds, local areas will not be required to use Recovery Act funds to make all 10 program elements available. Local areas have the flexibility to determine which program elements they provide with Recovery Act funds.
- Local areas have the flexibility to determine if the 12 month follow-up will be required for youth served with Recovery Act funds during the summer months only (May 1 through September 30). Local areas should provide follow-up services when deemed appropriate for such individuals.
- Local areas have the flexibility to determine the type of assessment and Individual Service Strategy (ISS) for youth served with Recovery Act funds during the summer months only. Although some level of assessment and development of an Individual Service Strategy is required, a full objective assessment and comprehensive ISS as specified in the WIA regulations is not required for youth served only during the summer months. Also, local programs will not be required to assess basic skills level for out-of-school youth participating in summer employment as part of the objective assessment, since the basic skills portion of the skill attainment rate and the literacy/numeracy gains measure will not be used for summer youth participants.
- Local areas have the flexibility to determine whether it is appropriate that academic learning be directly linked to summer employment for each youth served with Recovery Act funds during the summer months only.

Work Readiness

The work readiness performance indicator shall be the only measure of performance used to assess the effectiveness of summer employment for youth provided with such funds.

A work readiness skills goal shall prepare youth to meet the expectations of employers by demonstrating measurable growth in:

- World of work awareness;
- Labor market knowledge;
- Occupational information;
- Values clarification and personal understanding;
- Career planning and decision making;

- Job search techniques (resumes, interviews, application, and follow-up letters);
- Survival and daily living skills, i.e, using the phone, telling time, shopping, renting an apartment, opening a bank account, and using public transportation;
- Positive work habits, attitudes, and behaviors, i.e., punctuality, regular attendance, presenting a neat appearance, getting along and working well with others, exhibiting good conduct, following instructions and completing tasks, accepting constructive criticism from supervisors and co-workers, showing initiative and reliability, and assuming the responsibilities involved in maintaining a job;
- Developing motivation and adaptability;
- Obtaining effective coping and problem-solving skills; and
- Acquiring an improved self image.

Local areas should establish a methodology for determining work readiness skills upon beginning and completing the summer experience in order to determine whether a measurable increase has occurred. Although local areas are not required to use a specific assessment instrument to determine pre- and post-work readiness skills, local areas should choose from a variety of assessment tools including worksite supervisor evaluations, work readiness skill checklists administered by program staff, portfolio assessments, and any other relevant forms of assessing work readiness skills.

Adult Services

To be eligible to receive services under the WIA Adult formula funds provided in the Recovery Act, individuals must meet the eligibility requirements as stated in the State WIA policy "Eligibility for Adult Programs." The Recovery Act requires that priority use of WIA Adult program funds must be for services to recipients of public assistance and other low-income individuals as described in WIA section 134(d)(4)(E). Supportive services and needs-related payments must be available to support the employment and training needs of these priority populations. Supportive services may include transportation, child care, dependent care, housing, and other services that are necessary to enable an individual who is unable to obtain the services from other programs to participate in activities authorized under WIA. Needs-related payments may be provided to adults who are unemployed

and do not qualify for or have ceased to qualify for unemployment compensation for the purpose of enabling such individuals to participate in programs of training services. [Further guidance is provided in the State WIA policy “Needs-Related Payments.”]

It is the intent of the Recovery Act that WIA Adult funds be used to provide the necessary services to substantially increased numbers of adults to support their entry or reentry into the job market. To that end, local areas need to consider how assessment and data-driven career counseling can be integrated into their service strategies to support adults in successful training and job search activities that align with areas of anticipated economic and job growth. Recovery Act funds can be used on all activities specified under the WIA Adult program. WIA funds under the Recovery Act may be used for adult education, including basic or English language education, as delivered through community colleges and other high quality public programs and community organizations that provide such services, as long as they are provided in connection with occupational skill training leading to a job or career for which the individual is preparing. To maximize the reach of Adult formula funds, One-Stop Career Centers should help eligible customers take advantage of the significant increase in Pell Grant funds also included in the Recovery Act.

Dislocated Worker Services

To be eligible to receive services under the WIA Dislocated Worker formula funds provided in the Recovery Act, individuals must meet the eligibility requirements as stated in WIA section 101(9). [Further clarification is provided in the State WIA policy “Eligibility for Dislocated Workers.”]

The funds can be used for all activities specified under WIA for the Dislocated Worker program. However, the intent of the Recovery Act is that substantially increased numbers of dislocated workers will be served with this infusion of funds, and that training will be a significant area of focus. Recovery Act funds are provided to assure supportive services and needs-related payments that may be necessary for an individual's participation in job training are a part of the dislocated worker service strategy. The increased funds for supportive services and needs-related payments address a significant impediment to workers' willingness to access training that they need to meet their long term career needs.

Coordination and Alignment of Adult, Dislocated Worker and Youth Services with other Funding Sources

Recovery Act funding for Adult, Dislocated Worker, and Youth Services must be coordinated and aligned with Wagner-Peyser, Reemployment Services, Trade Adjustment Assistance, Unemployment Insurance, One-Stop Career Center partner programs, and Registered Apprenticeship to ensure the most efficient and effective use of all funding. By integrating Dislocated Worker services with Reemployment Services and Unemployment Insurance programs, individuals shall have easy access to all programs, regardless of their point of entry into the system. Since significant Recovery Act investments are targeted to key industries such as construction, transportation, healthcare and other industries with emerging “green” jobs that traditionally utilize or are expected to draw heavily upon Registered Apprenticeship, local areas are also encouraged to leverage with new and existing Registered Apprenticeship programs. [Further information on partnering with Apprenticeship programs in Nebraska is provided in the State WIA “Apprenticeship” policy.] In addition, WIA Adult and Dislocated Worker formula activities need to be aligned with state and regional economic recovery plans, particularly those connected with the Recovery Act, to ensure that training and employment services support anticipated industry growth, and corresponding expected employment opportunities and required skill competencies. Since more than fifty state-administered federally funded programs are impacted by Recovery Act funds, it is important to follow program updates at the Recovery.Nebraska.gov Web site. Local Workforce Investment Boards are encouraged to partner with each other regionally and across political jurisdictions, as necessary.

Prohibitions

None of the funds appropriated or otherwise made available in the Recovery Act may be used by any State or local government, or any private entity for the following: any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. Therefore, local areas must not use Recovery Act funds to place youth in summer employment, or work experiences outside the summer months, in any of these facilities.

The WIA Title I prohibition on construction is applicable to the use of Recovery Act funds, in accordance with 20 CFR 667.260, and the State WIA Property Management policy.

A participant in a Recovery Act funded program or activity must not displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any currently employed employee (as of the date of the participation.) In addition, the work experience of the participants must not replace the work of employees who have experienced layoffs.

Reporting

Financial Reporting for the Recovery Act Funds

Recovery Act funds for employment and training must be spent concurrently with standard formula funds to greatly increase the capacity of the workforce system to serve workers in need. However, all funds provided by the Recovery Act must be clearly distinguishable from non-Recovery Act funds in all agency financial systems, business systems (i.e., grant and contract writing systems), and reporting systems. Each funding stream must be tracked separately. States will submit the standard ETA-9130 reports for statewide youth, statewide adult, statewide dislocated worker, statewide rapid response (Dislocated Worker Activities), local youth, local adult, and local dislocated worker activities.

Program and Performance Reporting

Accountability guidelines provided by the Office of Management and Budget for the Recovery Act emphasize data quality, streamlining data collection, and collection of information that shows measurable program outputs. Nebraska shall follow the reporting guidelines provided by the U.S. Department of Labor's Employment and Training Administration (ETA).

Youth Reporting

In order to determine how to track and report youth served by Recovery Act funds, youth will be classified in the following ways:

- Any youth served with Recovery Act funds will be included in a separate Youth Recovery Act report.
- Any youth served with only Recovery Act funds that participates in summer employment only, will only be included in the Youth Recovery Act report and the work

readiness indicator will be the only measure that applies to such youth. According to TEGL 14-08, local areas will be required to track the number of participants enrolled in summer employment and the completion rate of those in summer employment.

- If a youth served with Recovery Act funds does not participate in summer employment or is served beyond the summer months, he/she would also be included in the regular WIA reporting mechanisms (WIASRD, annual report, quarterly report) and be subject to the full set of WIA Youth common measures.

Monitoring

In accordance with the Workforce Investment Act regulations at 20 CFR 667.410 and State WIA “Monitoring” policy, the State as the “recipient” of Recovery Act funds must conduct regular oversight and monitoring of its WIA activities and those of its subrecipients and contractors in order to determine that expenditures have been made against the appropriate cost categories and within the cost limitations. Oversight and monitoring must determine whether or not there is compliance with programmatic, accountability, and transparency provisions of the Recovery Act, as well as the regular provisions of the Workforce Investment Act, as amended, and its regulations and other applicable laws and regulations. The “subrecipients” are the entities which are awarded Recovery Act subgrants. They must conduct regular oversight and monitoring of their subrecipients and contractors in order to determine that expenditures have been made against the appropriate cost categories and within the cost limitations. They must also ensure there is compliance with programmatic, accountability, and transparency provisions of the Recovery Act, as well as the regular provisions of the Workforce Investment Act, as amended, and its regulations and other applicable laws and regulations. The State and its subrecipients shall provide technical assistance, as necessary and appropriate.