

Governor's Workforce Investment Division Policy No. 29-04

Subject: Workforce Investment Act Fund Utilization Requirements and Reallocation

Effective: March 17, 2004

Purpose: To provide information and instructions to Chief Elected Officials (CEOs), Local Workforce Investment Boards (LWIBs), and other interested or impacted parties regarding timeframes for utilization of funds under the Workforce Investment Act of 1998 (WIA) (the Act), as well as the process for recapture and reallocation of funds.

Reference: WIA § 127, 128, 132, 133; 20 CFR 667.107, 667.150, 667.160, 660.300

Background: The WIA includes procedures for the annual allotment of funds from the United States Department of Labor (DOL) to the various states to carry out programs under Title I of the Act. These funds are provided for WIA Title I adult, dislocated worker, and youth activities. Such allotments are provided for a particular program year (July 1 through June 30).

States are required to obligate 80 percent of Title I funds during the program year for which the funds are allotted. If the DOL determines this obligation requirement has not been met, the DOL shall recapture any portion of the 80 percent that is unobligated and reallot such funds to states that have met the obligation requirement for the program year at issue. The DOL makes its determination for each funding stream individually (adult, dislocated worker, and youth) based on allotments as adjusted for any allowable transfer between funding streams and less any amount (up to 5 percent at the state level and 10 percent at the local level) reserved for administration.

It is important to note that funds allotted to a state for a particular program year are available for expenditure by that state only during that program year and the two succeeding program years.

Fund utilization requirements are somewhat different when dealing with formula funds allocated to the LWIBs by the state. For these funds, there are two milestones creating the potential for recapture and return of monies to the state, where, as described in detail below, the money may be reallocated to other local regions or held by the state for use on statewide projects. The fund utilization requirements placed on LWIB formula funds do not apply to Rapid Response 25 percent funds or projects funded using state set aside funds.

The WIA and its accompanying regulations provide the Governor (or his designee) the option of recapturing and relocating formula funds based on obligations. Specifically, the Governor (or his designee) may, following the completion of the program year for which formula funds are allocated, recapture any amount by which the unobligated balance of the allocated funds exceeds 20 percent of the allocation. This amount, if any, is determined separately for each funding stream and is based on allocations adjusted for any allowable transfer between funding streams and less any amount reserved for administration (up to 10 percent). Any funds recaptured on this basis are to be reallocated to other eligible LWIBs based on the relative amount awarded to such local area under that funding stream for the program year in question as compared to the total amount allocated to all eligible local areas in the state for that funding stream. To be considered eligible to receive such reallocated funds, a LWIB must have obligated at least 80 percent of its allocation for the program year at issue, less any amount reserved for costs of administration (up to 10 percent) as separately determined for each funding stream. That is, eligibility is separately determined for each funding stream.

Formula funds allocated to a LWIB are also reviewed at the end of the second program year. Formula funds allocated by a state to a LWIB for any given program year are available for expenditure only during that program year and the succeeding program year. Funds not expended by a local area in the two year period must

be returned to the state. Funds returned to the state at the end of two program years are available for expenditure by state or local recipients and subrecipients only during the third program year of availability. These funds may be retained by the state and used for statewide projects or distributed to local areas that have fully expended their allocation of formula funds for the same program year within the two-year period.

Policy: The Governor's Workforce Investment Division (GWID), as the state entity charged with WIA administration, will follow the process described in this policy, the requirements of the WIA and its accompanying regulations, and any other applicable laws or regulations, regarding issues of fund utilization, recapture and reallocation.

The Governor's Workforce Investment Division (GWID), as the Governor's designee for WIA matters, hereby reserves the right to exercise the authority to recapture/reallocate unobligated formula funds allocated to the LWIBs at the end of the first program year as described in this policy and in the WIA and its accompanying regulations. If such funds are recaptured, they will be reallocated to eligible LWIBs as described in this policy and in the WIA and its accompanying regulations.

Any local formula funds that remain unexpended after two program years will be recaptured and returned to the state as described in this policy and in the WIA and its accompanying regulations. Any funds recaptured in this manner will either be retained for use in statewide projects or reallocated to eligible LWIBs as prescribed by this policy and the WIA and its accompanying regulations. The determination of the use of such recaptured funds will be based on the amount involved and the needs identified.

The process described above will be implemented for the program year ending June 30, 2004 and will continue for each successive program year. Determinations as to the amounts to be recaptured, if any, will be made as soon as possible after the submission of quarterly expenditure reports for the quarter ending June 30 each year (with such reports currently due approximately 45 days from June 30). Any funds recaptured from a LWIB will be returned to the state by September 1 each year through appropriate modifications to allocations and all relevant documents.

In regard to LWIBs, it is important to note that the term "obligation(s)" as used in this policy is defined by 20 CFR 660.300 as the following: "the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a funding period that will require a payment by the recipient or subrecipient during the same or future period". Only items meeting this definition may be considered obligations.

It is also important to note that if a LWIB loses a portion of its allocation to recapture, either through underobligation in the first year or as a result of having unexpended funds after two program years, this does not result in a loss of administrative funds available to the LWIB. Conversely, the acceptance of a reallocation of recaptured funds does not result in an increase of administrative funds available to the WIA.

Note: This policy supercedes Governor's Workforce Investment Division Information Notice 4-03, which also addresses the subject of recapture and reallocation of funds.

Action: LWIBs and all others affected by this information will note the effective date of the notice and be prepared to take any actions necessary to comply with this notification. This notice should be placed in the binder or other filing mechanism used to maintain an updated collection of state policy and informational issuances.

Questions: Contact the Governor's Workforce Investment Division, Building 6, Room B-617, 1900 Kanawha Blvd., East, Charleston, WV 25305. Toll free 1-877-967-5498.

Expiration Date: Effective until rescinded or modified by the West Virginia Workforce Investment Council.