



OKLAHOMA
DEPARTMENT OF COMMERCE

OKLAHOMA WORKFORCE DEVELOPMENT ISSUANCE # 07-2013

TO: Workforce Investment Board Chairs
Workforce Investment Board Staff

FROM: Deidre Myers, Deputy Director
Economic and Workforce Policy

DATE: June 28, 2013

SUBJECT: Eligible Training Provider Program

This policy is being re-released for the purpose of reissuing under the Oklahoma Department of Commerce policy naming convention and as reference to the rescission and update of OESC Memo #M-09-2009 issued on August 12, 2009. This policy does not change or replace any previous guidance or content related to the Eligible Training Provider OETI #04-2005 as it has not yet gone through the policy change process designated by the Oklahoma Governor's Council for Workforce and Economic Development.

PURPOSE: The Workforce Investment Act (WIA) requires providers of training services for WIA participants to be certified as Eligible Training Providers. The Act further requires that states establish criteria by which Local Workforce Investment Boards certify Eligible Training Providers. Training providers certified through the process may then serve as the training service providers for the individual training accounts (ITAs) identified within the Act. This requirement is intended to assure that WIA participants are trained by education and training entities that have demonstrated effectiveness in providing training that leads to program completion, employment in unsubsidized jobs, and retention on the job.

This policy establishes a system for Eligible Training Provider Certification and establishes the criteria by which Local Workforce Investment Boards certify Eligible Training Providers.

REFERENCES: Workforce Investment Act, Sec. 122; Federal Register / Vol. 65, No. 156 / Friday August 11, 2000 / Rules and Regulations / Sections 663.500 and 663.505 (c).

BACKGROUND: An important aspect of the Act is its focus on meeting the needs of businesses for skilled workers and the training, education and employment needs of individuals. The Act requires a customer-focused system. One of the key elements of this customer focus is the inclusion of individual training accounts for participants and the certification of training providers who must meet certain requirements before they may serve WIA participants who are eligible for "training services." Certified providers must be used for all adult and dislocated worker training services except when:

- Training is On-the-Job
- Training is Customized
- There are insufficient numbers of providers available
- It is more appropriate to use Community-Based Organizations or other private organizations serving special participant groups that face multiple barriers to employment.

MESSAGE: The Governor has designated the Oklahoma ServiceLink Eligible Training Provider System (OSL/ETPS) for management of WIA eligible training providers. Local Workforce Investment Boards (LWIBs) are responsible to provide materials and guidance to training providers in their local area regarding the use of the online system. Providers interested in having programs certified and to be eligible to receive funds made available under section 133(b) of the Workforce Investment Act, will enter complete and accurate information regarding their organization and training programs and submit to their LWIB. Eligible Training Provider applications must be evaluated by the LWIB and either recommended for approval in the online system or disapproved when they fail to meet required eligibility criteria. The Oklahoma Department of Commerce (ODOC), Workforce Services, as the designated state agency, will validate and approve or disapprove LWIB-recommended training providers and formally include approved providers on the State Eligible Training Provider List. Training on use of OSL/ETP will be provided to LWIB staff by Workforce Services.

Procedure: Applications for initial eligibility determination will be submitted to the Local Workforce Investment Board in which the training services provider desires to provide training. Applications will be accepted throughout the year. The OSL/ETP system will automatically generate a written determination of acceptance or rejection to an applying entity when the LWIB enters the determination into the system. WIA Board staff or representatives will, as determined reasonable by the WIA Board, make an on-sight visit to training provider program sites for the purpose of confirming training provider initial eligibility application information.

Definitions: The following definitions will be used to ensure standardized statewide application of this policy.

Completer (Program Completer): Completers are those individuals in the participant universe who successfully completed the program of training services during the specified twelve-month reporting period.

Completion Rate: Program Completers DIVIDED BY Participant Universe less Continuing Participants.

Continuing Participants: Continuing Participants are those individuals that did not complete in the twelve-month reporting period and who continue participating in the subsequent reporting period.

Demand Occupational Area: A demand occupational area is one in which substantial numbers of employment opportunities exists within the local area. Demand occupational areas may also include occupational areas that are considered to be emerging.

Eligible Provider of Training: An eligible provider of training is an entity that has submitted an application to the WIB, has been approved by the WIB, and has been placed on the statewide list of eligible providers. An eligible provider of training is eligible to receive funds from the WIA system for training of students receiving assistance through WIA.

Governor’s Council for Workforce and Economic Development: State Workforce Investment Board required by the Workforce Investment Act, Section 111.

Participant Universe: The participant universe is the total number of participants participating in a program of training services during the specified twelve-month reporting period.

Program of Training Services: A program of training services is one or more courses that, upon successful completion, lead/s to:

1. A certificate, associate, or baccalaureate degree; or
2. A competency or skill recognized by employers; or
3. A training program that provides individuals with additional skills or competencies generally recognized by employers.

Retention Rate for the WIA Universe: The Retention Rate is the percentage of WIA assisted individuals who obtained unsubsidized employment and are still employed 6 months after the first day of employment.

Retention Rate Calculation for the WIA Universe: The total number of WIA assisted individuals who completed the applicable program, who obtained unsubsidized employment, and who were still employed 6 months after the first day of employment DIVIDED BY the total number of individuals who completed the applicable program and obtained unsubsidized employment.

Reporting Period: The reporting period is the most recent twelve-month period prior to the date of the application. For subsequent eligibility purposes, the reporting period is the most recent twelve-month period prior to the reporting date established by the State. This reporting period is based upon the eligible providers standard reporting cycle.

As an example, if the provider customarily calculates reports on a January 1 – December 31 basis, and if the application for initial eligibility is dated May 1, 2000, the reporting period would be January 1, 1999 through December 31, 1999.

As an example, if the provider customarily calculates reports on a June 1 – May 31 basis, and if the application for initial eligibility is dated June 1, 2000, the reporting period would be June 1, 1999 through May 31, 2000.

Unsubsidized Employment: Unsubsidized employment is employment performed for wages, salary, or pay that is not contingent upon a subsidy such as on-the-job training reimbursements to the employer.

Eligibility Criteria and Process:

Initial: Providers of training services are identified within three categories:

- **Category 1:** A post-secondary institution that is eligible to receive Federal Funds under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) and that provides a program that leads to an associate degree, baccalaureate degree, or certificate.
- **Category 2:** An entity that carries out programs under the Act of August 16, 1937 (commonly known as the “National Apprenticeship Act”; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.)
- **Category 3:** Another public or private provider of a program of training services.

To be initially eligible as a service provider, institutions categorized as either #1 or #2 above must submit an application to the local WIB via the Oklahoma ServiceLink Eligible Training Provider System. The application must include a description of each program of training services for which the provider is requesting designation as an approved program. The institution does not have to provide performance information on each program of training services if that information is not readily available.

To be initially eligible as a service provider, institutions categorized as #3 above must submit an application to the local WIB, via the Oklahoma ServiceLink Eligible Training Provider System, containing a description of each program of training services for which the provider is requesting designation as an approved program. If the provider is currently providing the program of training on the date of application, the service provider must include performance information and program costs in the application. The program must meet appropriate levels of performance identified in Attachment I.

If the institution categorized as #3 does not currently provide the program of training on the date of application, the provider is not required to include performance information and is not required, for that program, to meet appropriate levels of performance for initial eligibility. If an institution categorized as #1 requests approval of a program of training that does not lead to an associate degree, baccalaureate degree, or certificate; OR if an institution requests approval of an apprenticeship program that is not registered under the National Apprenticeship Act, the institution must submit performance information and must meet appropriate performance levels. If the provider is currently providing the program of training on the date of application, the service provider must include performance information and program costs in the application. The program must meet appropriate levels of performance identified in Attachment I.

In summary, the following rules apply for initial determination of eligibility:

For Institutions categorized as #1 or #2:

- Must submit performance information if it is available; AND
- The program of training must meet the definition of Program of Training Services; AND
- The program of training must provide training that will qualify an individual for employment in a demand occupation.

For institutions categorized as #3 or institutions categorized as #1 or #2, which do not lead to an associate degree, baccalaureate degree, certificate, or is not a registered apprenticeship program:

- Must submit performance information for the program; AND

- The program of training must meet the definition of Program of Training Services;
AND
- The program of training must provide training that will qualify an individual for employment in a demand occupation; AND
- The program of training must meet the minimum performance levels for initial eligibility as shown in Attachment I.

Providers are not eligible to receive WIA training funds under title I of WIA until they have been added to the State eligible training provider list by the designated state agency. Providers from categories 1 and 2 are initially eligible without state agency review. The procedure for determining initial eligibility for category 3 providers is as determined by the Governor and documented in the State Plan.

A provider may be determined to be initially eligible for a period of time that exceeds one year. The State has established June 30 of each year as the date all eligible providers must submit performance information. In the determination of initial eligibility, a provider that is determined to be initially eligible between January 1 and June 30 will be granted an exemption from the June 30 reporting requirement for the initial year only. As an example:

Provider Determined Initially Eligible on October 1, 2003
 Initial Eligibility Period: October 1, 2003 – June 30, 2004
 Must submit performance information on June 30, 2004 for continued eligibility
 Provider Determined Initially Eligible on February 1, 2005
 Initial Eligibility Period: February 1, 2005 – June 30, 2005
 Must submit performance information on June 30, 2006 for continued eligibility

Subsequent: In making determinations of subsequent eligibility, LWIBs must take into account:

- The specific economic, geographic, and demographic factors in the local areas in which providers seeking eligibility are located.
- The characteristics of the populations served by providers seeking eligibility, including the demonstrated difficulties in serving such populations, where applicable.
- Current and projected occupational demand within the local area.
- The performance of a provider of program (s) of training services, including the extent to which the annual standards of performance established by the LWIBs have been achieved
- The program cost of training services.
- The involvement of employers in the establishment of skill requirements for training program.
- The impact provider performance will have on State-negotiated WIA Performance Measures for all program participants.

Each LWIB will ensure that training providers (in developing programs of training services and establishing performance criteria for successful course completion) use in descending order

- Skill standards recognized or conditionally recognized by the Oklahoma Skill Standards Board when available;
- Industry-defined or recognized skill standards; or,
- Skill requirements determined by employers.
- The feedback of employers who employ individuals who recently completed WIA supported training to verify that the training provided produced the expected skills.

Performance Requirements

For initial eligibility, programs of training services, for the following provider categories, must meet the minimum performance levels established by the Governor’s Council for Workforce and Economic Development, unless higher performance levels are established by the LWIB.

- Programs provided by entities categorized as #3 in the Initial and Subsequent Eligibility section of this application, and;
- Programs provided by entities categorized as #1 that do not lead to an associate degree, baccalaureate degree, or certificate, and;
- Apprenticeship programs not carried out under the Act of August 16, 1937 (commonly known as the “National Apprenticeship Act”; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.)

Initial Eligibility Performance Category	Minimum Performance Level
Program Completion Rate	20%
Entered Employment Rate	20%
Wages at Placement (Hourly)	\$ 5.15

Providers should be aware that minimum performance levels apply to all providers after the period of *initial* eligibility. Performance levels for *subsequent* eligibility shall be established by the LWIB and reported to ODOC, Workforce Services within 45 days of this issuance. Performance levels must be set to ensure continuous improvement within the LWIA.

Subsequent Eligibility Performance Category	Minimum Performance Level
For All Students in the Program	Authority to establish performance levels is delegated to the LWIB. These levels must be reported to ODOC, Workforce Services within 45 days of this issuance. Levels for WIA-assisted students must exceed levels established for all other students. Wages must comply with FLSA standards.
• Program Completion Rate	
• Entered Employment Rate	
• Wages at Placement (Hourly)	
For WIA Assisted Students in the Program	
• Program Completion Rate	
• Program Completer Entered Employment Rate	
• Retention Rate in Unsubsidized Employment	
Licensure or Certification Rates, Attainment of academic degrees or equivalents, or attainment of other measures of skills.	

Debarment and Suspension: All WIA Title I grant recipients and sub-recipients must comply with the government-wide requirements for debarment and suspension, and the government-wide requirements for a drug-free workplace codified at 29 CFR Part 98.

Local Appeals

Providers of training programs have certain rights to appeal decisions made by the WIB and/or State such as a decision not to approve a training program. Providers may appeal a decision on whether a training program provides training in a demand occupational area. Providers may not

appeal the WIB or State minimum performance levels.

If the Local Workforce Investment Board determines that a provider is not eligible to receive WIA funding for training services, it must provide an appeal process. The appeal process must meet the same standards outlined above under the initial eligibility determination process. Reason for ineligibility can include failure to meet specified standards or minimum standards, violation of the Act, failure to submit performance information or intentional misrepresentation of information.

Local WIA Board policy shall determine the circumstances under which reconsideration of a denied application may be afforded to a provider that was denied initial eligibility determination. An entity whose application for certification was denied may reapply no sooner than six (6) months after the written notice of denial. An applicant who intentionally provides inaccurate information in order to obtain certification will not be eligible to receive funding for a period of not less than 2 years.

An appeal made by a provider must be addressed to the WIB, in writing, to which the application was submitted. The appeal should state the specific item upon which the appeal is made and the appeal should contain the rationale for the appeal. The WIB will have a maximum of 30 days in which to respond to the appeal. The WIB may ask for additional information and may conduct an informal resolution process. A decision must be made by the WIB within 30 days after receipt of the appeal. If the final decision made by the WIB is unsatisfactory to the provider, the provider may appeal the WIB decision to the State.

Process for removing providers from the list

Within the following rules, all references to the term "Program Manager" shall mean the Program Manager acting as ETP Administrator in OSL for Workforce Services unless the context clearly indicates otherwise.

Pursuant to WIA section 122 (i) the Governor designated the Oklahoma Department of Commerce, (ODOC) to make the determinations required by WIA section 122 (e)(2) and (f). Each local board shall use the OSL/ETP system to receive and either approve or disapprove applications from trainer providers, including their performance and program cost information as described in WIA section 122 (b) or (c) to the Program Manager. Providers recommended for approval by the LWIB will be placed in the OSL/ETP queue for consideration by the State. If the Program Manager determines within thirty (30) days after the date of submission that the provider does not meet the performance levels in WIA section 122 (c)(6), the Program Manager may remove the training provider from the list for the program. This does not apply to an agency submitting an application under WIA section 122 (b)(1). If the Program Manager, after consultation with the local board, determines that an eligible training provider, or an individual providing information on behalf of an individual training provider, violated WIA section 122 (f) (1) and (2), the Program Manager shall terminate the eligibility of the training provider. The Program Manager shall send a certified letter to the training provider at the training provider's address of record with the local board.

The training provider has twenty (20) days from the date the decision is mailed to appeal the

determination through the Workforce Services Grievance Process. If a timely appeal is not received, the decision shall become final and no further appeal shall be allowed. If a timely appeal is received, Workforce Services will schedule a hearing and notify the provider in writing of the date and place of the hearing at least ten (10) days prior to the hearing date. Workforce Services shall conduct a hearing pursuant to its rules at 240:10-11-20 through 240:10-11-31. If the training provider's appeal is denied by Workforce Services, it may file an appeal to District Court pursuant to Oklahoma's Administrative Procedures Act, 75 Okla. Stat. Section 318. ODOC will provide the administrative record to the district court in the time period provided in 40 Okla. Stat. Section 3-403.

ACTION REQUIRED: Workforce Investment Boards Staff are requested to widely distribute copies of this issuance to current and potentially Eligible Training Providers within their Workforce Investment Area, the OSL/ETP Users Manual. Local board must also ensure that performance data for all provider programs currently in the on-line system be entered into the OSL/ETP system before June 30, 2014 so that subsequent eligibility recommendations can be validated. This is official state policy and should be maintained in your permanent policy issuance file.

RECISSIONS: This issuance rescinds Oklahoma and Employment Training Issuance (OETI) #04-2005 dated March 31, 2005.

INQUIRIES: If you have questions regarding this issuance, please contact either Regina Clear at 405-815-5160, regina_clear@okcommerce.gov or Robyn Coman at 405-815-5322, robyn_coman@okcommerce.gov.