

# DIRECTIVE

## WORKFORCE SERVICES

Number: WSD08-5

Date: September 24, 2008

69:123:cs:12100

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: LOCAL PLAN MODIFICATIONS PY 2008-09

### EXECUTIVE SUMMARY:

#### Purpose:

This directive announces a fourth one-year extension to existing Local Workforce Investment Area (LWIA) Five-Year Strategic Local Plans via the local plan modification process. In addition, it provides instructions and forms to submit Program Year (PY) 2008-09 local plan modifications.

#### Scope:

This directive applies primarily to all Local Workforce Investment Boards (LWIB); however, as part of the larger workforce development community, those in the Workforce Services Branch field operations are included in this circulation.

#### Effective Date:

This directive is effective on date of issuance.

### REFERENCES:

- Workforce Investment Act (WIA) Sections 118, 117(b)(2) and (d), 121(b)(1), 134(c)(2)(A) and (d)(4)(A)(iii)
- Title 20 Code of Federal Regulations (Title 20 CFR) Parts 661.345, 661.350, and 661.355
- Training and Employment Guidance Letter (TEGL) 22-06, WIA Adult, Dislocated Worker and Youth Activities Program Allotments for PY 2007; Additional PY 2007 Funding from WIA Section 173(e) for Adult/Dislocated Worker Activities for Eligible States; Final Wagner-Peyser Act Allotments for PY 2007; and Consolidated Work Opportunity Tax Credit (WOTC) Fiscal Year (FY) 2007 (April 6, 2007)
- TEGL 13-06, Change 1, Instructions for WIA and Wagner-Peyser Act State Planning and Waiver Requests for Years Three and Four of the Strategic Five-Year State Plan (PYs 2007 and 2008) (April 5, 2007)

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- TEGL 20-06, Reauthorization of the WOTC and Other Program Changes (April 3, 2007)
- TEGL 19-06, Negotiating Performance Goals for the WIA Title 1B Programs and Wagner-Peyser Act Program for PYs 2007 and 2008 (March 30, 2007)
- TEGL 13-06, Instructions for WIA and Wagner-Peyser Act State Planning and Waiver Requests for Years Three and Four of the Strategic Five-Year State Plan (PYs 2007 and 2008) (January 24, 2007)
- TEGL 5-06, Implementing the Salary and Bonus Limitations in Public Law 109-234 (August 15, 2006)
- TEGL 25-05, Change 1, WIA Adult and Youth Programs Final Allotments for PY 2006, and Additional PY 2006 Funding from WIA Section 173(e) for Adult/Dislocated Worker Activities for Eligible States (August 10, 2006)
- TEGL 17-05, Common Measures Policy for the Employment and Training Administration's Performance Accountability System and Related Performance Issues (February 17, 2006)
- Senate Bill (SB) 293 (Ducheny), Chapter 630, Statutes of 2006
- California Unemployment Insurance Code (CUIC) Sections 14000 through 14530
- California Workforce Investment Board (CWIB) letter, Subject: [Second Supplemental Local Planning Guidance](#) and Instructions for Submission of the Strategic Five Year Local Plan for the WIA (June 13, 2000)
- CWIB letter, Subject: [Supplemental Local Planning Guidance and Instructions](#) for Submission of the Strategic Five Year Local Plan for the WIA (February 25, 2000)
- WIA Directive WIAD06-21, Subject: Workforce Training Act (SB 293) Implementation Guidance (June 29, 2007)
- WIAD06-17, Subject: Changes to WIA Requirements-SB 293, The Workforce Training Act (March 20, 2007)
- WIAD05-19, Subject: Local Plan Modifications for PY 2006-07 (June 16, 2006)
- WIAD05-12, Subject: Transfer of Funds—Adult, Dislocated Worker, and Recaptured Funds (January 12, 2006)
- Workforce Services Information Notice WSIN07-33, Subject: Approval of Common Measures Waiver Request (February 5, 2008)
- WSIN07-4, Subject: Statewide Performance Goals for PYs 2007-08 and 2008-09 (August 3, 2007)
- WIA Information Bulletin WIAB06-36, Subject: Changes to WIA Requirements-SB 293 (Chapter 630, Statutes of 2006) (December 18, 2006)
- WIAB99-2, Subject: WIA Initial Local Planning Guidance (December 14, 1999)

## STATE-IMPOSED REQUIREMENTS:

This directive contains some State-imposed requirements. These requirements are indicated by ***bold, italic*** type.

## FILING INSTRUCTIONS:

This directive supersedes Workforce Services Directive WSD07-4, dated October 2, 2007, and finalizes Workforce Services Draft Directive WSDD-16, issued for comment on August 8, 2008. The Workforce Services Division (WSD) received nine comments during the draft comment period. These comments resulted in several substantive changes to this directive. First, a provision has been added allowing local areas to submit an unsigned draft of their local plan modification by the October 30, 2008 deadline, and provide an explanation and date by which the signed original and copies will be sent. This provision has been included in past directives, and upon the request of the local areas, has been incorporated into the final version of this directive. Second, Assurances A, C, H, and I have been removed from Section VIII of the WIA Local Plan Modification PY 2008-09 Narrative Forms (Attachment 2). These assurances go beyond the purview of the local boards, and are instead, the responsibility of the State. Third, the second portion of Assurance E relating to Methods of Administration has been removed. This assurance also goes beyond the purview of the local board, and is rather, the responsibility of the Governor. Last, additional guidance has been provided to the 12 local learning labs regarding their completion of the forms contained in the WIA Local Plan Modification PY 2008-09 Instructions and Forms (Attachment 1). This guidance is contained in the section titled, Modifications specific to the 12 local learning labs. These changes are viewed as highlighted text. The highlighted text will remain on the Internet for 30 days from the issuance date. A summary of the comments and their corresponding resolutions are provided as Attachment 3. Retain this directive until further notice.

## BACKGROUND:

The LWIBs submitted their initial Five-Year Strategic Local Plans pursuant to the requirements in WIA Section 118, instructions in WIAB99-2, dated December 14, 1999, and several issuances of supplemental guidance. Title 20 CFR Part 661.355 states that the Governor must establish procedures governing the modification of local plans. Accordingly, WSD07-4, dated October 2, 2007, provided instructions for submitting the PY 2007-08 plan modifications, including the required changes to local policies resulting from the passage of SB 293. SB 293 amended the CUIC to repeal Division 8, Family Economic Security: Job Preparation and Training Services, and to amend Division 7, California Workforce Training Act, by replacing Section 14000 and adding Sections 14005-14530.

The LWIBs were given three one-year extensions to their existing Five-Year Strategic Local Plans via local plan modifications for PYs 2005-06, 2006-07, and 2007-08. ***To meet the requirements in Section 118 of WIA, the LWIBs are being given a fourth one-year extension to their existing Five-Year Strategic Local Plans, subject only to the requirements of this directive for PY 2008-09.***

## **POLICY AND PROCEDURES:**

This directive includes the attachment, *WIA Local Plan Modification PY 2008–09 Instructions and Forms*. The forms in this attachment include the following:

- Cover Page
- Table of Contents
- Signature Page
- Title IB Budget Plan Summaries for Adult or Dislocated Worker and Youth
- Title IB Participant Plan Summary
- Negotiated Levels of Performance
- Local Area Grant Recipient Listing

***All LWIBs must complete the Cover Page, Table of Contents, Signature Page, Budget Plan Summaries, Participant Plan Summary, Negotiated Levels of Performance Chart, and LWIA Grant Recipient Listing, as part of the modification.***

Final approval of the local area's proposed goals is subject to negotiation with the State. (Note: The Title IB Participant Plan Summary and the Negotiated Levels of Performance forms have been updated to reflect the State's replacement of the statutory performance measures under WIA Section 136(b) with the common performance measures defined in TEGL 17-05. See the section below titled, Performance Goals.)

This directive also includes the attachment, *WIA Local Plan Modification PY 2008-09 Narrative Forms*. The LWIBs should utilize this set of forms if they need to make changes to any of the narrative portions submitted with their initial plan or subsequent modifications.

Both of these attachments are also available on the Employment Development Department's (EDD) Web site under Resources, Local Planning Documents at [www.edd.ca.gov/Jobs\\_and\\_Training/Local\\_Planning\\_Documents.htm](http://www.edd.ca.gov/Jobs_and_Training/Local_Planning_Documents.htm).

**Local plans must be modified to include the following elements, as applicable:**

### **Memorandums of Understanding (MOU)**

The WIA Section 121(c)(2) requires that each MOU contain provisions describing the following:

- how the costs of such services and the operating costs of the system will be funded
- methods for referral of individuals between the One-Stop operator and the One-Stop partners, for the appropriate services and activities

Some LWIBs may have submitted MOUs missing these required elements. In certain cases, the LWIB's MOU was approved based on the condition that cost-sharing arrangements would be developed. In other instances, the MOUs did not include

specific information about referral methods. The **LWIBs must attach a current copy of each fully executed MOU for all required partners that describe the cost-sharing arrangements and methods of referral, as well as the other required elements in WIA Section 121(c). If there is more than a single One-Stop in the local area, the MOUs must address the cost-sharing arrangements and other Section 121(c) requirements regarding each of the One-Stops, including descriptions of any differences or unique arrangements regarding the various sites. In addition, if your local area is involved with the local learning lab effort and your methods of referral will change as a result of your status as a local learning lab, those changes should be summarized in the MOU.**

**If cost-sharing arrangements are not included as part of the MOU but are contained in another document (e.g., a lease agreement), provide a copy of that document with the MOU. If any required MOUs have not yet been negotiated, these must be identified and a description of the ongoing efforts and/or problems in finalizing the memorandum(s) must be provided in Box "S" of the narrative Section V entitled "Local One-Stop Service Delivery System." Please indicate the projected dates, if known, of full execution.**

### **Required Changes Resulting from the Passage of SB 293**

The passage of SB 293 (Statutes of 2006, Chapter 630) resulted in changes to the CUIC. These changes provide guidance and new requirements for carrying out WIA-funded program activities. Due to the timing of the release of WSD07-4, Local Plan Modifications PY 2007-08, not all local areas were able to incorporate the changes from SB 293 into their PY 2007-08 local plans (e.g., the local area was unable to obtain approval from the LWIB Chair and Chief Elected Official by the local plan designated due date). **All local plan modifications for PY 2008-09 need to reflect changes to local policies in order to include the provisions as summarized in the following CUIC requirements.**

- The CUIC Section 14202 requires that **representatives of labor organizations comprise at least 15 percent of each LWIB. Describe the LWIB composition in Box "C" (and any other applicable sections/boxes) of the narrative Section IV entitled "Leadership."**
- The CUIC Section 14206(d) requires LWIBs to **"Select one-stop operators, with the agreement of the local chief elected official, annually review their operations, and terminate for cause the eligibility of such operators." Include the LWIBs policy addressing this process in Box "B" of the narrative Section V entitled "Local One-Stop Service Delivery System."**
- The CUIC Section 14206(h) requires each LWIB to **"Develop local policy on the amount and duration of individual training accounts based on market rate for local training programs." Include this policy in Box "F" of the narrative Section V entitled "Local One-Stop Service Delivery System."**
- The CUIC Section 14230(a)(5) states that training services shall be made available to individuals who, among other criteria, **"have selected a program of services directly linked to occupations in demand in the local or regional area."**

**Include the LWIBs policy addressing this topic in Box "R" of the narrative Section V entitled "Local One-Stop Service Delivery System."**

- The CUIIC Section 14230(d) requires each LWIB to **"develop a policy for identifying individuals who, because of their skills or experience, should be referred immediately to training services"**. In addition, it requires LWIBs to contain **this policy and the methods for referral of individuals between the one-stop operators and the one-stop partners, in the MOU between the LWIB and the one-stop partners. Include both the LWIBs policy and methods for referral in Box "S" of the narrative Section V entitled "Local One-Stop Service Delivery System.**

For more detailed guidance regarding the CUIIC requirements, refer to [WIAD06-21](#), Workforce Training Act (SB 293) Implementation Guidance, dated June 29, 2007.

### **Transfer of Funds—Adult and Dislocated Worker Formula Allocations**

Workforce Services Directive [WSD08-2](#), dated August 14, 2008, provides State policy and procedures for the transfer of funds between Title I adult and dislocated worker programs. The LWIBs may submit a request for transfer at any time during the two-year life of the funds except for May and June of the second year of availability. When you wish to initiate a transfer of funds, **follow the instructions in the directive for requesting the transfer. To include a request for transfer of funds as part of your local plan modification, make the appropriate entries on the budget and participant forms.**

On February 26, 2008, the Department of Labor (DOL) granted the State's request to extend and expand its waiver of the funds transfer limitation. This new waiver raises the transfer limit of adult and dislocated worker funds from 50 percent to 100 percent for PY 2007-08 and PY 2008-09. To the extent a LWIA requests to transfer its entire allocation of dislocated worker funds to the adult program, it should be cognizant of the following implications pertaining to that transfer:

- The State will not consider LWIA requests for funding from the WIA Dislocated Worker 25 Percent Additional Assistance account to mitigate the loss of dislocated worker formula funds resulting from the transfer. The WIA Directives, [WIAD05-18](#) and [WIAD07-3](#), describe the policy guidelines for Additional Assistance funds. Pursuant to these guidelines, a LWIA may not apply for Additional Assistance funds based on the contention of dislocated worker allocation "formula insufficiency" resulting from the transfer. However, if a LWIA transfers 100 percent of its dislocated worker formula funds and a dislocation event occurs in the local area, (e.g., specific employer layoff or disaster that changes the local economic conditions), the State will consider a LWIA request for Additional Assistance funds on a case by case basis.
- If the LWIB has determined that the funds allocated to it for adult employment and training services are limited, priority for intensive and training services must be given to recipients of public assistance and other low income adults. All dislocated worker funds transferred to the adult program will become subject to this priority of service requirement.

- If the LWIB has determined that funds are not limited for adult employment and training services, the local area may offer intensive and training services to all eligible individuals regardless of income status. (If the LWIB has determined that funds are not limited, this should be stated in relevant sections of their local plan.)
- All participants served with funds transferred from the dislocated worker to the adult program will be attributed to the adult program and subject to adult accountability and performance outcomes. Under this scenario, the LWIA will not have any dislocated worker participants or performance outcomes, even though some clients may have otherwise qualified as dislocated workers.

### **Performance Goals**

On December 11, 2007, the DOL approved California's waiver request to move from the statutory performance measures specified in WIA Section 136(b)(2) to the common performance measures defined in [TEGL 17-05](#). This information was disseminated to the workforce development community in [WSIN07-33](#), dated February 5, 2008. This waiver is effective July 1, 2007 through June 30, 2009. ***Include a discussion of how your local area's program design has been updated as a result of the State's replacement of the statutory performance measures with the common performance measures in the narrative Section V entitled "Local One-Stop Service Delivery System" and Box "F" of the narrative Section VI entitled "Youth Activities."***

### **Additional situations in which modifications are required**

Title 20 CFR Part 661.355 provides examples of situations for which the Governor may also require modification of the local plan. ***The State requires LWIBs to modify their local plans to include any of the following four changes referenced in Title 20 CFR Part 661.355, which are applicable to the local area.***

- Significant changes (as well as a general downturn) in local economic conditions -- ***All LWIBs should describe any significant changes in the narrative Section III entitled "Labor Market Analysis."***
- Changes in financing available to support WIA Title I and partner-provided WIA services – ***All LWIBs will have changes in financing available to support Title I services, i.e., the PY 2008–09 allocations. The LWIBs should incorporate the PY 2008-09 allocations into their Budget Plan Summary modifications, included in the WIA Local Plan Modification PY 2008–09 Instructions and Forms attachment.***
- Changes to the LWIB structure – “Changes to the Local Board structure” does not mean changes in specific individuals on the board. Rather, it refers to changes in numbers of members, additional partnership categories, and other structural changes (e.g., the establishment of a youth council within the board, or the 15 percent representation of labor organizations required by SB 293). However, no structural changes can be made which would eliminate any required partner categories, or which would eliminate the private sector majority. ***Any applicable changes must be discussed in Box "C" (and any other applicable sections/boxes) of the narrative Section IV entitled "Leadership."*** For example,

if there are changes regarding the youth council, these should be discussed in Box "A" of the narrative Section VI titled "Youth Activities."

- A need to revise strategies to meet performance goals – Local negotiated PY 2007–08 performance goals may not be available by the time of your PY 2008–09 modification submittal. However, even if they are not, you may decide locally, based on prior years' experiences, that you will need to change your strategies in order to meet your performance goals. ***If so, discuss the strategic changes in the narrative Section II entitled "Local Vision and Goals" and/or any other applicable sections of the narrative.***

### **Modifications specific to the 12 local learning labs**

Each of the 12 local learning labs developed and submitted a local integration plan in accordance with the State's draft policy framework to the EDD's Workforce Services Branch near the end of February 2008. These local integration plans described the design elements used in modeling their new service delivery system. If the plan submitted by your local area in February 2008 continues to accurately reflect your area's involvement in the integrated service delivery local learning labs effort, include it by reference in the narrative section of your PY 2008-09 local plan modification. However, if there have been substantive changes to your February 2008 plan, please revise the plan to incorporate those changes, and then attach it to your local plan modification.

The local learning labs should complete all of the forms contained in Attachment 1, WIA Local Plan Modification PY 2008-09 Instructions and Forms, including the Title IB Participant Plan Summary and the Local Negotiated Levels of Performance. The EDD recognizes that PY 2008-09 is the first year of implementation of the local learning lab pilot program, and therefore the learning labs will have no data benchmarks to utilize in projecting the information required in these forms. The EDD only requests that the local labs provide their best estimate of the requested information based on what they have learned thus far in their experience as a learning lab. In addition, if there are special circumstances which a learning lab would like the State to consider, the EDD welcomes the learning lab to include this information in a footnote on the applicable form.

### **Format**

The *WIA Local Plan Modification PY 2008–09 Instructions and Forms* includes a local plan table of contents that has columns for indicating which plan sections have been revised. ***Only those items that were not submitted with the local area's initial five-year plan and/or prior local plan modifications, items requiring changes (e.g., significant changes in local economic conditions, or changes in local policies resulting from the passage of SB 293), and a local area's involvement with the Integrated Service Delivery Local Learning Labs effort, must be included in the modification.***

***Annotate each revised page with a revision date in the lower right corner of the page (e.g., "Rev. 6/30/08"). Complete the cover page. After the cover page, arrange the modification in the order indicated by the table of contents.***

## **Public Comment, Signatures, Due Date**

Plan modifications must be made available to the public through such means as public hearings and the local news media. Members of the LWIB and members of the public, including representatives of business and labor organizations, must be allowed to submit comments on the proposed modification to the local plan. These must be submitted no later than the end of the 30-day period beginning on the date on which the proposed modification is made available.

The plan modification is due to the State no later than October 30, 2008. Six copies are required, at least one of which must contain the original signatures of the LWIB Chair and the Chief Elected Official, or their designated alternates. Only one copy of each MOU is required. (Note: Alternates must be formally designated by official action of their respective boards or locally approved policy.) **Some local areas may be unable to obtain the approval of both the Local Board Chair and the Chief Elected Official by the due date (e.g., because of the scheduling of their respective board meetings). If so, they must submit at least one copy of the unsigned modification by the due date and provide an explanation and date by which the signed original and copies will be sent.**

### **ACTION:**

Please bring this directive to the attention of all relevant parties. ***Complete the plan modification according to the instructions in this directive and attachments. Submit the modification no later than 5:00 p.m., on October 30, 2008, to:***

Mail: Program and Technical Assistance Section  
Workforce Services Division, MIC 50  
Employment Development Department  
P.O. Box 826880  
Sacramento, CA 94280-0001

Overnight Mail: Program and Technical Assistance Section  
Workforce Services Division, MIC 50  
Employment Development Department  
800 Capitol Mall  
Sacramento, CA 95814

Hand Deliver: Program and Technical Assistance Section  
Workforce Services Division  
Employment Development Department  
722 Capitol Mall, Room 5099  
Sacramento, CA 95814

**INQUIRIES:**

If you have any questions, please contact your [Regional Advisor](#) at (916) 654-7799.

/S/ BILL BURKE  
Assistant Deputy Director  
Workforce Services Branch

/S/ BOB HERMSMEIER  
Chief  
Workforce Services Division

Attachments are available on the Internet:

1. [WIA Local Plan Modification PY 2008–09 Instructions and Forms](#)
2. [WIA Local Plan Modification PY 2008-09 Narrative Forms](#)
3. [Summary of Comments](#)