

September 12, 2006

NEMO WIB Issuance #04-06

To: All Program Operators

From: Sharon Hays, Executive Director

Subject: Use of WIA Title I Financial Assistance to Employer or Train Participants in Religious Activities When the Assistance is Provided Indirectly

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1. Purpose: To provide Guidance on Permitting the Use of Workforce Investment Act (WIA) Title I Financial Assistance Consistent with the U.S. Department of Labor's (DOL) Policy.

2. Background:

President George E. Bush implemented Executive Order 13279 in 2001 which required federal agencies to review and revise their policies to ensure that faith-based and community-based organizations are able to apply and compete equally with other eligible organizations for federal financial assistance. In response to this executive order, DOL implemented several changes to its regulations, including 29 CFR part 2, subpart D. DOL developed the Training and Employment Guidance Letter (TEGL) 1-05, dated July 6, 2005, which establishes the new rules to allow the use of WIA Title I financial assistance for religious training and employment activities. On October 12, 2005, the Missouri Training and Employment Council (MTEC) approved a policy that encourages local Workforce Investment Boards to partner with faith-based organizations to provide services, when appropriate.

3. Substance: The Northeast Missouri Workforce Investment Board, Inc. (NEMO WIB) which is the sub-grant recipient and fiscal agent for the Northeast Workforce Investment Region for the WIA Title I funding allocation, acknowledges that these funds can be used to employ or train participants in religious activities, as long as this assistance is provided indirectly.

Recent Supreme Court decisions permit the use of Federal financial assistance to support employment and training in religious activities when the assistance is 'indirect' within the meaning of the Establishment Clause of the First Amendment to the Constitution when certain requirements are met. Assistance is considered indirect, for example, when participants are given a genuine and independent private choice among training providers or program options and can freely elect, from among such options, to receive training in religious activities. Individual Training Accounts (ITA's) and other types of support that provide participants with genuine choices generally meet these criteria. Of course, any employment,

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training or services offered must otherwise satisfy the requirements of the program (e.g., 20 CFR part 663, subparts C and D).

Training services must be provided in a manner that maximizes an informed consumer choice. To ensure genuine and independent private choice, each participant must be offered at least one option to which the participant has no religious objection. Training services, whether under ITA's or under contract, must be provided in a manner that maximizes informed consumer choice. In addition, an organization must not be favored for, or denied recognition as, an eligible training provider or other provider solely on account of religion.

The final rule at 69FR 41894 relates to limitations on the employment of WIA Title I participants in construction, operation and maintenance at locations where certain religious activities occur. Separate guidance will be issued relating to this final rule once additional guidance is received from DOL and DWD.

Faith-based organizations must be eligible, on the same basis as any other organization, to apply for or receive Federal financial assistance under and participate in any DOL social service program for which the organizations are otherwise eligible. This means the NEMO Workforce Investment Board will not discriminate against an organization, an eligible training provider or other provider solely on account of religion.

4. Action: The NEMO Workforce Investment Board will be responsible for monitoring compliance with this policy. DWD will be responsible for monitoring compliance with this policy and providing training on the provision of 29CFR part 2, subpart D, which defines the responsibilities of faith-based organizations and other entities that receive or administer DOL support under current law. This issuance is effective immediately to all staff working with the Workforce Investment Act programs.
5. Contact: If you have any questions, please contact Sharon Hays or Linda Studer at (660) 327-5125.

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Sharon Hays, Executive Director