



METHODS OF ADMINISTRATION

Between

US DEPARTMENT OF LABOR
Civil Rights Center

And

STATE OF HAWAII
Department of Labor and Industrial Relations

Administrator
For
Workforce Investment Act
State Employment Security Administration
Unemployment Insurance Division

December 20112

INTRODUCTION

Methods of Administration

A Methods of Administration (MOA) is a document that describes the actions an individual state will take to ensure that the Workforce Investment Act (WIA) of 1998, Title I-financially assisted programs, activities and recipients are complying, and will continue to comply, with the nondiscrimination and equal opportunity requirements of the Act and its implementing regulations.

The MOA, as it is commonly referred to, is organized into nine (9) elements and includes both a narrative (Part A) and a documentation section (Part B) of each element. Federal regulations codified as 29 CFR Part 37, Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Act of 1998; Final Rule, established the requirements for the Methods of Administration, including a state's obligation to develop and maintain the document.

Purpose and Authority

The purpose of the MOA is to provide a reasonable guarantee of Hawaii's compliance with the Americans with Disability Act, Section 504 of the Rehabilitation Act of 1973 (amended), Section 188 of the Workforce Investment Act (WIA) of 1998, and 29 CFR Part 37 as the State implements and executes the WIA of 1998. The MOA is supported by the Governor's Administrative Directive No. 87-3, regarding affirmative action and equal opportunity for Hawaii's workforce.

The Governor is specifically mandated to develop and issue a MOA for the WIA at 29 CFR 37.54. The MOA applies to (1) ANY RECIPIENT, (2) programs and activities that are part of the One-Stop delivery system; and (3) the employment practices of a recipient and/or One-Stop partners, as provided in 29 CFR 37.2. The MOA certification must be renewed every two years, and the state must advise the Department of Labor's Civil Rights Center (USDOL CRC) promptly of updates to the MOA, and of changes of State Equal Opportunity Officer (State EOO). See 20 CFR 37.55(b).

The Civil Rights Center (CRC), United States Department of Labor, Office of the Assistant Secretary for Administration and Management, is responsible for administering and enforcing Section 188, the nondiscrimination and equal opportunity provisions of WIA and its implementing regulations found at 29 CFR Part 37. Further, CRC is responsible for developing and issuing policies, standards, guidance and procedures for affecting compliance. The Director also reviews and approves the Methods of Administration for the WIA Title I programs for each state and works with the state's governor and equal opportunity officer to ensure the state's programs are conducted in a nondiscriminatory manner.

Definitions (as found in 29 CFR 34)

Definition of those terms considered essential for understanding the Methods of Administration are included for convenience. Recipients are directed to the code for a complete list of applicable definitions.

- a. *Aid, benefits, services or training* means WIA Title I-funded financially assisted services, financial or other aid, or benefits provided by or through a recipient or its employees, or by others through contract or other arrangements with the recipients. This may include but is not limited to:
(1) Core and intensive services; (2) Education or training; (3) Health, welfare, housing, social service, rehabilitation or other supportive services; (4) Work opportunities; and (5) Cash, loans or other financial assistance to individuals.
- b. *Employment practices* means a recipient's practice related to employment, including but not limited to: (1) Recruitment or recruitment advertising; (2) Selection, placement, layoff or termination of employees; (3) Upgrading, promotion or transfer of employees; (4) Training, including employment-related training; (5) Deciding rates of pay or other forms of compensation; (6) Use of facilities; or (7) Deciding other terms, conditions, benefits and/or privileges or employment.
- c. *LWIA (Local Workforce Investment Act Area) grant recipient* means the entity that receives WIA Title I-funded financial assistance for a Local Workforce Investment Area directly from the Governor and distributes those funds for workforce investment activities.
- d. *One-Stop Site* means a WIA center designated by a local board (LWIB) in their respective counties. Currently the Workforce Development Division (WDD) branches in all four counties are in the consortia selected by the Local Workforce Investment Boards (LWIB) to operate the One-Stops. The consortia are led by the WDD branch on Maui and by the counties in other local areas.
- e. *Participant* means an individual who has been determined to be eligible to participate in, and who is receiving aid, benefits, services or training under a program or activity funded in whole or in part under Title I of the WIA. "Participant" includes but is not limited to, applicants receiving any services) under state employment service programs, and claimants receiving any service(s) under state Unemployment Insurance programs.
- f. *Recipient* means any entity to which financial assistance under WIA Title I is extended, either directly from the U.S. Department of Labor or through the Governor or another recipients (including any successors, assignee, or transferee of a recipient) but excluding the ultimate beneficiaries of the WIA-funded program or activity. In addition, One-Stop partners, as defined in section 121(b) of the WIA, are treated as "recipients," and are subject to the nondiscrimination and equal opportunity requirements of this part, to the extent that they participate in the One-Stop delivery system.

- g. Section 504 means Section 504 of the Rehabilitation Act of 1973, 20 USC 794, as amended, which forbids discrimination against qualified individuals with disabilities in federally financed and conducted programs and activities.
- h. Service provider means: (1) Any operator of, or provider of aid, benefits, services or training to: (a) Any WIA Title I-funded program or activity that receives financial assistance from or through any State or LWIA grant recipient; or (b) Any participant through that participant's individual training account; or (2) Any entity that is selected and/or certified as an eligible provider of training services to participants.
- i. Small recipient means a recipient who: (a) Serves a total of fewer than 15 beneficiaries during the entire grant year, and (b) Employs fewer than 15 employees on any given day during the grant year.
- j. State Programs means programs financially assisted in whole or in part under Title I of the WIA in which either (1) The Governor and/or State receives and disburses the grant to, or through LWIA grant recipients; or (2) The Governor retains the grant funds and operates the programs, either directly or through a State agency. "State Programs" also include State Employment Security Agencies, State Employment Service Agencies, and/or State Unemployment Compensation Agencies.
- k. WIA Title I-funded program or activity means: (1) A program or activity, operated by a recipient and funded, in whole or in part, under Title I of WIA, that provides either: (a) Any aid, benefits, services or training to individuals; or (b) Facilities for furnishing any aid, benefits, services or training to individuals; (2) Aid, benefits, services or training provided in facilities that are being or were constructed with the aid of Federal financial assistance under WIA Title I; or (3) Aid, benefits, services or training provided with the aid of any non-WIA Title I funds, property, or other resources that are required to be expended or made available in order for the program to meet matching requirements or other conditions which must be met in order to receive WIA Title I financial assistance.