

**NEW WAIVER REQUEST
MISSOURI SUMMER JOBS PROGRAM FOR YOUTH
American Recovery and Reinvestment Act (Recovery Act)**

**Request to Waive Procurement Requirements for Youth Summer
Employment Providers under the Recovery Act**

The Division of Workforce Development, as the State of Missouri's administrator for the Workforce Investment Act (WIA) and the American Recovery and Reinvestment Act ("the Recovery Act"), is submitting a waiver related to procurement requirements for youth services in WIA section 123 for approval from the U.S. Department of Labor (DOL). This waiver is two-fold, and is being requested to be utilized under the Recovery Act for the summer work experience component only.

1. Request a waiver to allow WIBs to expand existing competitively procured contracts by a percentage equal to the percentage increase in the total allotment from the state.
2. Request a waiver to conduct an expedited, limited competition to select service providers.

The Division of Workforce Development (DWD) met with the local workforce investment boards (WIBs) on Thursday, March 19, 2009 to survey their process for immediately procuring service providers to carry out the summer employment program under the Recovery Act. While some WIBs plan to administer the summer youth employment program themselves, other WIBs expressed concern over the short timeframe for procurement implementation and requested that DWD submit this waiver on behalf of the WIBs, with the flexibility of utilizing one of the two options listed above. DWD views this waiver as an emergency request in order for the state to support its WIBs in their effort to quickly implement the procurement process so enrollment of youth into summer work experience may begin on time.

Justification for this Waiver

WIBs expressed a concern that in some areas of the state barriers to rapid implementation of the summer employment program are due to not enough service providers to make a selection on a competitive basis. Therefore WIBS are asking for flexibility in how they procure when there may be only one or two service providers in the local area. It is understood by the WIB that if this waiver is approved, DWD would require a WIB to certify certain conditions were met as a result of applying this waiver. Policy guidance would be developed so that fair procurement processes are followed.

Other WIBs wanted to utilize current service providers because they had strong proven records of success in providing youth services under WIA, and to meet the expedited process required of this program, wanted to expand their current contracts to include the Recovery Act summer program with these service providers. It is understood that if this waiver is approved, it would apply to the summer employment program element only, applicable under Recovery Act funding.

It should also be stated that Missouri has long-standing relationships with many youth service providers, with a building of trust that has developed over the years. When a different youth provider must be sought just to meet the competitive procurement process, the rendering of

services can be disruptive and can cause instability in a relationship that is working smoothly in providing quality WIA services, particularly with the emergency procurement needs with the Recovery Act summer program.

Describe reasonable accountability safeguards against unfair procurement practices

DWD will provide policy and guidance through an agency issuance if this waiver is approved. It should also be noted that the state of Missouri currently has a waiver for procuring WIA eligible providers of youth activities and has the experience to quickly implement the guidance necessary to carry out the intent of this waiver.

The Quality Assurance Unit of DWD will be responsible for the field monitoring of each WIB that utilizes this waiver. This is accomplished by a site visit performing the following functions: 1) reviewing the local policy set forth that provided the justification of a particular service provider; 2) reviewing any public notice and/or Request for Proposals (RFP) documentation as a result of their procurement process; and 3) making sure that the service provider selected was justified through the limited competition and/or the expansion of their existing competitively procured contracts. DWD will ensure that the service provider selected has met the criteria of successfully meeting the performance outcomes in serving youth in previous program years.

Assure compliance with state and local procurement laws and policies

The state assures DOL that DWD will follow the state and local procurement laws and policies by strictly adhering to the Missouri's Code of State Regulations (CSR), Division 40 (1 CSR 40-1.010 through 1 CSR 40-1.090) regarding the Office of Administration's Purchasing and Materials Management – Chapter 1 – Procurement, and the policies set forth in Chapter 34 of the Missouri Revised Statutes. The Quality Assurance Unit is very familiar with these regulations and will ensure that the WIBs utilizing this waiver follow these regulations to the full extent of the law.

Describe how states will publicly announce summer employment providers, as indicated by the transparency provisions in the Recovery Act

DWD will also post on its website, a list of current summer service providers at <http://ded.mo.gov/wfd/>. Also, each WIB will be responsible for identifying their service providers for the summer youth employment program on their website.

This waiver request adheres to the format provided in WIA ss189(i)(4)(B) and WIA Regulations 20 CFR 661.420(c).

1. Statutory or Regulatory Requirement to be Waived

It is with the upmost urgency we ask for this waiver request to be approved as quickly as possible so that Missouri can quickly provide the WIBs with procurement guidelines that meet current state and local law, and comply with OMB requirements codified in 29 CFR Parts 95.40-95.48 and 97.36. The state is not looking to circumvent the process, but rather to provide assistance to a local WIB when they have demonstrated a unique need to utilize a particular service provider. The state of Missouri also requests that WIA Sections 117(d)(2)(B) and 123, and WIA Regulations 20 CFR 664.410 be waived so that the WIBs have the option to competitively select service providers for youth.

2. State or Local Statutory or Regulatory Barriers

There are no known state or local statutory or regulatory barriers to implementing this waiver. Upon notification on the approval of this waiver, DWD will incorporate it into policy and distribute the new policy to the WIBs. Missouri assures DOL that the state will be in compliance with state and local procurement laws and policies.

3. Goals and Expected Programmatic Outcomes of this Waiver

The goal of this waiver request is to improve youth service procurement by increasing flexibility in streamlining the procurement laws and policies so that the state is well prepared for implementation of the Recovery Act summer program in the state of Missouri.

4. Individuals Affected by this Waiver

A granting of this waiver would be in alignment with Missouri's strategic goal of streamlining the procurement process so there is an increased focus on the enrollment of youth into the summer program under the Recovery Act.

5. Processes Used to:

Monitor the Progress in Implementing the Waiver

Should this request be granted, DWD is the entity responsible for incorporating this waiver into a policy issuance that would be distributed to the WIBs. Local WIBs will need to justify why a competitive bid process would not be followed, and provide the documentation in electronic format as soon as possible to keep the approval process flowing for a quick response and approval, when applicable. DWD will assume the lead role in monitoring the implementation of the waiver.

Provide Notice to any Local Board Affected by the Waiver

Prior to the submission of the waiver request, DWD will inform all WIBs of its intent via an email memorandum, with this waiver request attached. The Missouri Workforce Investment Board met on March 25, 2009 and overwhelmingly supported the submission of this waiver. The board made it very clear that this waiver is to be used for the operation of the summer youth program under the Recovery Act funds only.

Provide any Local Board Affected by the Waiver an Opportunity to Comment on the Request

A 5-day comment period from the date of written notification will be given to allow WIBs an opportunity to provide comments on the waiver request.

Ensure Meaningful Public Comment on the Waiver Request

A 5-day comment period began on March 27, 2009 with the publication of this waiver on the state's website <http://ded.mo.gov/wfd/> and on Missouri's SHARE Network at <http://www.sharenetworkmo.org/>. The SHARE Network is a unique network, reaching out to

workforce development partners, faith-based and community organizations, businesses and government agencies. DWD also sent an electronic memorandum advising the workforce investment board leaders of the opportunity to provide comment. As stated earlier, the MoWIB approved this waiver at its full board meeting on March 25, 2009.