


## TEXAS WORKFORCE COMMISSION LETTER

**ID/No:** WD 37-05

**Date:** August 29, 2005

**Keyword:** WIA

**To:** Local Workforce Development Board Executive Directors  
Commission Executive Staff  
Integrated Service Area Managers

**From:**  Luis M. Macias, Director, Workforce Development Division

**Subject:** **Workforce Investment Act: Final Rule Concerning Faith-Based and Community-Based Organizations**

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### **PURPOSE:**

To provide Local Workforce Development Boards (Boards) with information concerning the U.S. Department of Labor's (DOL) final rule on faith-based organizations (FBOs) and community-based organizations (CBOs).

### **REFERENCE:**

Personal Responsibility and Work Opportunity Reconciliation Act of 1996, H.R. 3734, 104<sup>th</sup> Congress, 2<sup>nd</sup> Session, Public Law 104-193

Workforce Investment Act, Final Rule, 20 C.F.R., Parts 667 and 670; 29 C.F.R. Parts 2 and 37

Executive Order 13198, issued January 31, 2001, and entitled "Agency Responsibilities With Respect to Faith-Based and Community Initiatives" (*Federal Register*, Vol. 66, No. 21)

Executive Order 13279, issued December 16, 2002, and entitled "Equal Protection of the Laws for Faith-Based and Community Organizations" (*Federal Register*, Vol. 67, No. 241)

United States Department of Labor Training and Employment Guidance Letter No. 1-05, issued July 6, 2005, and entitled "New Rules Allowing Use of WIA Title I Financial Assistance for Religious Training and Employment, and Making Other Changes to Religion-Related Regulations Governing Recipients of DOL Support Including the One-Stop Career Center Service Delivery System and the Job Corps"

Executive Order GWB 96-10, issued December 17, 1996, and entitled "Relating to the Implementation of the 'Charitable Choice' Provision in the 1996 Federal Welfare Law"

## **FLEXIBILITY RATINGS:**

**No Local Flexibility (NLF):** This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. Federal and state laws, rules, policies, and required procedures with a “No Local Flexibility” rating are indicated by the acronym, **NLF**, in the margin to the right of the applicable paragraph. Additionally, all information with a “No Local Flexibility” rating is indicated by “must” or “shall.”

Failure to comply with the federal and state laws, rules, policies, and required procedures with a “No Local Flexibility” rating may result in corrective action, up to and including sanction and penalty.

**Local Flexibility (LF):** This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All guidance or recommended practices with a “Local Flexibility” rating are indicated by the acronym, **LF**, located in the margin to the right of the applicable paragraph. Additionally, guidance or recommended practices with a “Local Flexibility” rating are indicated by “may” or “recommend.”

Boards are not subject to corrective action for failure to comply with guidance or recommended practices with a “Local Flexibility” rating.

## **BACKGROUND:**

In December 1996, then-Governor George W. Bush issued Executive Order GWB 96-10 directing state agencies to begin aggressive implementation of the “charitable choice” provision of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The provision invited private and religious charities to deliver welfare services, while guarding the religious integrity of participating groups and religious freedom of beneficiaries. The Texas Workforce Commission, along with the Boards, have actively executed the Governor’s directives through partnerships with FBOs and CBOs.

In January 2001, President George W. Bush issued Executive Order 13198, which created Centers for Faith-Based and Community Initiatives in five cabinet departments, including DOL. In December 2002, President Bush issued Executive Order 13279, which clarified the rights and responsibilities of FBOs and CBOs that partner with the federal government.

In response to Executive Orders 13198 and 13279, DOL issued a Workforce Investment Act (WIA) final rule clarifying that Boards may contract with FBOs and CBOs for the provision of WIA services. Most recently, DOL issued Training and Employment Guidance Letter (TEGL) No. 1-05, which explains and interprets the amendments made to DOL regulations by the final rule.

## **PROCEDURES:**

### **Direct DOL Financial Assistance**

Boards contracting with FBOs to provide WIA services must ensure that an FBO is permitted to:

- retain its independence from federal, state, and local governments and be allowed to carry out its mission;

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- use its facilities to provide social services without removing or altering religious art, icons, scriptures, or other religious symbols from those facilities; and
- retain its authority over its internal governance, including retaining religious terms in its name, selecting its board members on a religious basis, and including religious references in its mission statements and other governing documents.

However, Boards must be aware that organizations receiving direct DOL financial assistance to provide services must not:

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- discriminate for or against a current or prospective service recipient on the basis of religion or religious beliefs; or
- use that DOL financial assistance to provide inherently religious activities, such as worship, religious instruction, or proselytization.

Boards must be aware that if an organization receives direct DOL financial assistance to provide WIA services, and also provides religious activities by design, then the religious activities must be offered at a different time or location than the WIA services. Additionally, Boards must ensure that participation in those religious activities is strictly voluntary for WIA participants.

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### **Indirect DOL Financial Assistance**

Boards must be aware that, with the enactment of the final rule, WIA participants now may be trained or employed in religious activities when “indirect” DOL financial assistance is used.

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DOL financial assistance is considered indirect when:

- it is used to pay for training or services to a WIA participant; and
- the WIA participant is offered an independent choice among training providers or program options.

TEGL 1-05 provides Individual Training Accounts and Personal Reemployment Accounts as examples of indirect DOL financial assistance.

TEGL 1-05, which Boards may access at <http://wdr.doleta.gov/directives/attach/TEGL1-05.pdf>, also provides additional information and guidance on DOL’s rules regarding religious training and employment, and religion-related regulations governing recipients of DOL support.

The WIA final rule at 29 C.F.R., Part 37 relates to limitations on the employment of WIA Title I participants in construction, operation, and maintenance at locations where certain religious activities occur. DOL will issue separate guidance relating to these issues.

**ACTIONS REQUIRED:**

Boards must ensure that appropriate staff is apprised of and complies with the requirements in this WD Letter.

**INQUIRIES:**

Direct inquiries regarding this WD Letter to the assigned contract manager for your local workforce development area.

Rescissions: None	Expiration: Continuing
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