

Chapter ILHR 816

DISLOCATED WORKER PROGRAM

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Note: Chapter 816 was created as an emergency rule effective November 26, 1985.

ILHR 816.01 Purpose. The purpose of this chapter is to establish rules to govern the granting of funds by the department for dislocated workers programs as described in section 3029 (3p) of 1985 Wisconsin Act 29 and 29 U.S.C. s. 1652. This chapter is not intended to preclude the department from pursuing federal funds under 29 U.S.C. s. 1651 (a) and (c), Job Training Partnership Act Section 301 (a) and (c). This chapter shall not apply to grants awarded prior to November 1, 1985.

Note: See Appendix for a reprint of section 3029 (3p) of 1985 Wisconsin Act 29.

History: Cr. Register, May, 1986, No. 365, eff. 6-1-86.

ILHR 816.02 Definitions. (1) "Chief local elected official or CLEO" means:

(a) In the case of the Northwestern Wisconsin Service Delivery Area, the governing body as stated in 29 U.S.C. s. 1503 (4) (c);

(b) In the case of all other service delivery areas, the elected county executive or the county board chairperson in counties not represented by an elected county executive.

(2) "Department" means the department of industry, labor and human relations.

(3) "Dislocated worker" means an individual to whom the provisions of section 3029 (3p), 1985 Wisconsin Act 29 and 29 U.S.C. s. 1652 apply.

(4) "Grant" means the document that establishes a binding legal relationship between two or more parties to carry out an approved project.

(5) "JTPA" means the Job Training Partnership Act, 29 U.S.C. s. 1501.

(6) "Long-term unemployed" means any individual who is unemployed at time of eligibility determination and has been unemployed for fifteen or more of the twenty-six weeks immediately prior to such determination.

(7) "Matching funds" means financial or in-kind contributions from resources other than 29 U.S.C. s. 1651 that are expended to underwrite program costs.

(8) "Private industry council or PIC" means a council, described in 29 U.S.C. s. 1512, appointed by the chief local elected official comprised of voluntary representatives of the private sector, who constitute a majority of the members, educational agencies, organized labor, rehabilitation agencies, community-based organizations, economic development agencies and the public employment service. The PIC is responsible for providing policy guidance for and exercising oversight over the job training plan, described in 29 USC 1514, for its service delivery area in partnership with local government.

(9) "Proposal guidelines" means the instructions for completing a proposal.

(10) "Proposal" means the application for funding.

(11) "Request for proposals or RFP" means the competitive process of soliciting proposals to provide a service or operate a project.

(12) "Review panel" means a panel established under section 3029 (3p), 1985 Wisconsin Act 29 chaired by the secretary, that includes the secretary of the department of development, the director of the state board of vocational, technical and adult education, the chairperson of the SJTCC and three other members of the SJTCC as appointed by the secretary.

(13) "Secretary" means the secretary of the department of industry, labor and human relations.

(14) "Service delivery area" means an area, established under 29 U.S.C. s. 1511 and designated by the governor which:

(a) Is comprised of the state or one or more units of general local governments;

(b) Will promote effective delivery of job training services, and

(c) Is consistent with labor market areas or standard designation of an entire labor market area, or is consistent with areas in which related services are provided under other state or federal programs.

(15) "State job training coordinating council or SJTCC" means the council which is appointed by the governor to provide advice in planning, coordinating and monitoring JTPA and related activities and services and which is comprised of individuals representing the following groups:

(a) One-third representing business and industry including members of private industry councils; and

(b) At least one-fifth representing the state legislature and state agencies;

(c) At least one-fifth representing units of local government; and

(d) At least one-fifth representing the general public, the eligible population, community based organizations, and local education agencies.

(16) "Underemployed" means being employed full-time with an annualized family income below the poverty level, or employed part-time and seeking full-time employment.

(17) "Unemployed individual" means an individual who did not work during the 7 consecutive days prior to application to a JTPA program, who made specific efforts to find a job within the past 4 weeks prior to application, and who was available for work during the 7 consecutive days prior to application (except for temporary illness).

History: Cr. Register, May, 1986, No. 365, eff. 6-1-86.

ILHR 816.03 Eligible participants. Any person served by dislocated worker projects shall satisfy the eligibility requirements under 29 U.S.C. s. 1504, 1577 and 1652. In addition, any person served under by dislocated worker projects after July 1, 1986, must meet the requirements of either sub. (1) or sub. (2).

(1) (a) The person shall be dislocated from his or her place of employment within the last 5 years; and

(b) A person 22 years of age or over shall have at least 2 years continuous or intermittent previous work history. A person 21 years of age or younger shall have at least 4 years previous work history. Victims of a permanent plant or facility closing are exempt from all work history requirements; and

(c) The person does not have a specific recall date from an employer.

(2) The person is a farmer who terminates farming as a result of a sale of farming premises on a judgement of mortgage foreclosure or as a result of a default and surrender of physical possession of farming premises held under land contracts and is unemployed or underemployed.

History: Cr. Register, May, 1986, No. 365, eff. 6-1-86.

ILHR 816.04 Eligible applicants. Any public, private non-profit or private for-profit agency or organization is eligible to apply to receive funds and provide program services.

History: Cr. Register, May, 1986, No. 365, eff. 6-1-86.

ILHR 816.05 Plan development. (1) The department, with the advice of the review panel, shall develop a plan for the dislocated worker program that shall meet the requirements of 29 U.S.C. s. 1658. The plan shall address at least the following: objectives for the dislocated workers program; program priorities and description; performance standards and coordination with other programs.

(2) The plan developed by the department shall be provided to the speaker and minority leader of the assembly, the president and minority leader of the senate and made available to the public for a review and comment period at least 30 days prior to its implementation. It shall also be reviewed by the SJTCC for consistency with the governor's coordination and special services plan.

History: Cr. Register, May, 1986, No. 365, eff. 6-1-86.

ILHR 816.06 Types of programs. The department may establish, in the plan for the dislocated workers program, portions of the fund to respond to special needs of Wisconsin's dislocated workers. These may include programs such as:

(1) Wisconsin re-employment program or WREP — provides funding for long term projects that will result in returning dislocated workers to

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productive employment through areas of emphasis such as: improving coordination with statewide economic development efforts and the state's other employment and training programs; lessening the impact of major plant closings and major layoffs; serving targeted groups of women, minorities, handicapped, older workers and dropouts; lessening the impact of a decline in an occupation or industry; or serving the long term unemployed.

(2) Special response fund — provides short-term flexible funding for projects responding to emergencies when workers are affected by a plant closing or major layoff, and to new or expanding industries or companies needing assistance in the training of their work force.

(3) Wisconsin farmers fund — provides funding for projects to serve dislocated family farmers who are forced out of business due to the factors stated in section 3029 (3p) (c) of 1985 Wisconsin Act 29 and who must find other permanent, long-term employment.

History: Cr. Register, May, 1986, No. 365, eff. 6-1-86.

ILHR 816.07 Proposal solicitation and content. (1) All projects funded by the dislocated workers program shall comply with the plan. The method for awarding dislocated worker grants shall be through an RFP process unless another method is approved by the review panel.

(2) Each RFP, including the content and evaluation criteria, shall be developed under the guidance of the review panel and the plan.

(3) Each proposal shall provide: a statement of need including the unemployment rate, number of unemployed or dislocated workers, and a description of the economic conditions in the area; a description of any skill development or training to be provided; occupations that are in demand within the targeted geographic area; how the program is to be coordinated with other employment and training programs; how labor organizations have been involved in planning the project when a substantial number of their members will be served; how the local PIC and CLEO have been provided a 45-day review and comment period; a description of past performance; an itemized estimate of cost; the minimum rate of placement; the minimum average wage at placement; maximum cost per placement; and the administrative capacity of the applicant.

History: Cr. Register, May, 1986, No. 365, eff. 6-1-86.

ILHR 816.08 Proposal review. (1) The department shall conduct a preliminary screening of minimum criteria that shall be met for all proposals. The screening will be according to the criteria included in the RFP as established by the review panel. The initial screening will include a scoring process in which a proposal may earn a maximum of 12 points. Proposals shall earn 12 points under the following criteria before being referred to the review panel for consideration:

(a) Performance standards: the department may award from 0 to 3 points to proposals dependent upon compliance with the required minimum placement rate, average wage at placement and maximum cost per placement.

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(b) Cost limitations: the department may award from 0 to 1 point to proposals on the basis of their compliance with cost limitations established for the administration, support and training budget line items.

(c) PIC and CLEO 45 day review and comment: the department may award 0 to 1 point on the basis that proof has been provided that the local PIC and CLEO, or the designated CLEO in the case of a consortium, have had 45 days to review and comment on the proposal:

(d) Completeness: the department may award from 0 to 6 points based on the proposal's inclusion of the 6 following items: a statement of need; a description of any skill development or training to be provided; a description of occupations that are in demand within the targeted geographic area; how the proposed project is coordinated with other employment and training programs; an itemized estimate of cost; and a description of the administrative capacity of the applicant.

(e) Local labor union involvement: the department may award 0 to 1 point on the basis of written support of the local labor union when a substantial number of its members will be served; one point will automatically be awarded to proposals in cases where no union members will be served.

(f) History of demonstrated poor performance or fiscal noncompliance: the department will award no points for this item, but will comment.

(2) Only proposals that score 12 points and have earned comments of acceptable performance in item sub. (1) (f) in the initial screening shall qualify to be referred to the review panel and secretary for consideration. In addition, the department shall provide the review panel with a summary of the qualifying proposals' consistency with items such as those listed in section 3029 (3p) (d), 1985 Wis. Act 29, and recommendations for funding alternatives which will best fulfill the objectives of the dislocated workers plan.

History: Cr. Register, May, 1986, No. 365, eff. 6-1-86.

ILHR 816.09 Role of the review panel. The review panel shall make recommendations to the Secretary on the selection of service providers based on a competitive RFP. The panel shall consider all of the items listed in Section 3029 (3p) (d), 1985 Wisconsin Act 29. Severity of need may include items such as the unemployment rate, the number of unemployed or dislocated workers and the economic conditions of the area. Appropriate skill development or training may include items such as the demand for the occupation in the area or in other areas to which relocation assistance will be provided. In addition, the review panel shall consider geographic area to be served; and any recommendations of the local PIC and CLEO: The review panel may also consider other appropriate items such as: demonstrated effectiveness; cost effectiveness; placement rate; administrative capacity of the proposer; and ability to raise matching funds.

History: Cr. Register, May, 1986, No. 365, eff. 6-1-86.

ILHR 816.10 Reporting requirements. All grantees are required to maintain fiscal and programmatic records as required by the department and to make periodic and special reports as required by the department.

History: Cr. Register, May, 1986, No. 365, eff. 6-1-86.

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ILHR 816.11 Administration. The department shall be responsible for soliciting proposals for the funds, for reviewing applications, for making comments or recommendations to the review panel on the disposition of proposals, for executing grant agreements, for authorizing payments and otherwise implementing grant obligations entailed in grants made under the terms of this chapter, for monitoring the provision of services, for receiving reports required by the department, and for ensuring that audits are conducted.

History: Cr. Register, May, 1986, No. 365, eff. 6-1-86.

ILHR 816.12 Appeals. All appeals concerning the programs administered under this chapter shall be made in accordance with 29 U.S.C. s. 1554 and ch. 227, Stats.

History: Cr. Register, May, 1986, No. 365, eff. 6-1-86.

APPENDIX

The material contained in the Appendix is for clarification purposes only. The following is a reprint of 1985 Wisconsin Act 29, Section 3029.

(3p) ASSISTANCE FOR DISLOCATED WORKERS. (a) *Definitions.* In this subsection "dislocated worker" means an individual to whom any of the following applies:

1. The individual has been terminated or laid off or has received a notice of termination or lay-off from employment, is eligible for or has exhausted his or her entitlement to unemployment compensation and is unlikely to return to his or her previous industry or occupation.

2. The individual has been terminated, or has received a notice of termination of employment, as a result of any permanent closure of a plant or facility.

3. The individual is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an older individual who may have substantial barriers to employment by reason of age.

(b) *Grants.* From the appropriation under section 20.445 (1) (b), (mb) and (mc) of the statutes, the department of industry, labor and human relations shall make grants to persons providing to dislocated workers programs offering training and related employment services including but not limited to the following:

1. Job search assistance, including participation in job clubs.

2. Training in job skills.

3. Support services, including but not limited to transportation assistance, relocation assistance, financial counseling, personal counseling and programs conducted in cooperation with employers or labor organizations.

(c) *Grant approval.* No grant may be awarded under this subsection unless both of the following occur:

1. A review panel appointed by the secretary of industry, labor and human relations approves the application for funding and refers its decision to the secretary.

2. After receiving a referral under subdivision 1, the secretary approves the application for funding.

(d) *Application review.* In reviewing applications for funding under this subsection, the review panel and the secretary of industry, labor and human relations shall consider all of the following:

1. The severity of the need for the program in the community to be served when compared with the severity of need in other communities.

2. The appropriateness of the skill development or training to be provided, including whether the demand for that skill exceeds the supply.

3. Whether the program provides for labor organizations to participate in program planning.

4. Whether the program provides for coordination with other employment and training programs offered in the community in which the program will be offered.

(e) *Rule making.* The department of industry, labor and human relations shall adopt rules to administer this subsection. The rules of the department shall address eligible applicants and program providers, application requirements, criteria and procedures for awarding grants, reporting and auditing procedures and administrative operations. The rules shall also provide that a person who terminates farming as a result of a sale of farming premises on a judgment of mortgage foreclosure or as a result of a default and surrender of physical possession of farming premises held under contract is terminated as a result of permanent closure of a facility.

(f) *Funding.* From the amounts appropriated under sections 20.445 (1) (ma), (mb) and (mc) of the statutes, all moneys received under 29 USC 1651 to 1658 shall be expended to fund grants and operations under this subsection.

(g) *Sunset.* Paragraphs (a) to (f) do not apply after June 30, 1987.