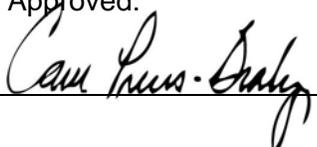


<b>Department of Community Colleges and Workforce Development</b>	Number: 589-30.9
	Effective: 08/14/07
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SUBJECT: Workforce Investment Act Title IB Pre-award Criteria for Business Relocation – 120 Day Rule	Approved: 

Purpose: To transmit standardized pre-award review criteria to be completed and documented jointly by local areas with relocating establishments as a prerequisite to receiving Workforce Investment Act (WIA) assistance.

References: 20 CFR Section 667.268

Definition: Labor Market Area – consists of a central city and surrounding area; it is an economically integrated geographical unit within which workers may readily change jobs without changing their residence.

Policy: The Workforce Investment Act (WIA) Title I funds may not be used to encourage or induce a business or part of a business to relocate from any location in the United States if the relocation results in employees losing their jobs at the original location. When a relocation results in employee job loss at the original location, WIA funds may not be used for customized training, skill training, on-the-job training, or company-specific assessments of job applicants or employees until the company has operated at the new location for a minimum of 120 days.

In order to verify that an establishment, which is new or expanding, is not, in fact, relocating employment from another area, the local workforce investment area, or its designee, and the new or expanding business must jointly complete and document a standardized pre-award review. This pre-award review is a prerequisite to the business's receipt of any WIA-funded services. As a result of the review, if it is determined that relocation from one labor market area within the United States (U.S.) and its territories to another labor market area has occurred, the following criteria must be met:

1. The relocation did not result in any employee losing his or her job at the original location; or
2. If the relocation did result in any employee losing his or her job at the original location, the company has been in operation (e.g., in production or providing services) in the new location for a minimum of 120 days.

A sample standardized pre-award review form is provided in Attachment A. Locally developed procedures and forms may be used providing they address, at a minimum, the issues and information covered in this policy and on the attached sample form.

A pre-award review must document the following:

1. Name(s) under which the establishment does business (including predecessors and successors in interest);
2. The name, title, and address of the company official certifying the information; and
3. Whether WARN notices relating to the employer have been filed.

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As part of the review, the following must be obtained from the employer:

1. A statement from the employer about job losses at the former location and information relative to whether a bargaining agreement was in place which covered affected employees;
2. A certification by the employer that the business is new or expanding and not a relocation; and
3. A certification by the employer regarding whether any WARN notices have been filed.

#### Guidelines for Considerations

As part of the review, the Local Workforce Investment Area (LWIA) or designee may find it advisable to consult with labor organizations and others in the affected local area.

If the local area contracts with a business to provide WIA services, the local area may want to include a hold harmless clause which passes liability to the business establishment should a disallowed cost arise as a result of the business's actions or failure to provide accurate information.

# ATTACHMENT A

## Standardized Pre-Award Review

*No funds provided under the Workforce Investment Act (WIA) shall be used, or proposed to be used, for the encouragement or inducement of a business, or a part of business, to relocate from any location in the United States, if the relocation results in any employee losing his or her job at the original location (20 CFR 667.268).*

The purpose of this review is to determine whether a business establishment is new or expanding and if there is any relation to a loss of employment in another geographic area. The pre-award review is to be completed and documented jointly by the Local Workforce Investment Area (LWIA) or their designee and the business establishment as a prerequisite to receiving WIA Title I assistance.

1. Name(s) under which the establishment does business (including predecessors and successors in interest).
2. Date the company or establishment will expand or commence operations.
3. Name, title, and address of the company official that is certifying the information.

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_

4. Name and address of any facility in another geographic location that is being closed or from which business is being transferred. Provide location(s):
5. Determine if WIA assistance is sought in connection with past or impending job losses at other facilities and identify the type of assistance requested by the establishment under consideration in this pre-award review.
6. Provide statement from employer about job losses at the former location(s).  
Was a collective bargaining agreement in place that covered the affected employees?  
If so, provide the name of union representation.
7. Consult with the labor representative to confirm whether any dislocations from the relocation occurred and provide summary of discussion.
8. Review WARN notices relating to the employer and list dates of submission.

As the authorized official of \_\_\_\_\_, I certify that the WIA Standardized Pre-Award Review information set forth above is true and accurate.  
\_\_\_\_\_ agrees to defend, indemnify, and save the state of Oregon, the \_\_\_\_\_ Local Workforce Investment Area, and \_\_\_\_\_ as the reviewing entity harmless from and against any and all liability, loss, damage, cost, and expense, including court costs and attorney fees (whether or not litigation be commenced), of whatever nature or type, including WIA disallowed costs, that the State or LWIA may suffer, incur or be required to pay, which result from \_\_\_\_\_'s failure to provide accurate information in response to the WIA Pre-Award Review.

Authorized Representative's Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

The WIA pre-award review was conducted by \_\_\_\_\_, an Authorized representative of \_\_\_\_\_, in accordance with WIA State Policy on Business Relocation: Standardized Pre-Award Review. Neither the State of Oregon, any Local Workforce Investment Area, nor \_\_\_\_\_, as the Entity conducting the review, shall be legally liable regarding the responses provided by \_\_\_\_\_ during the conduct of this review.

Based upon this review, WIA Title I assistance to this establishment is:

Appropriate

Not Appropriate

Reviewer's Name: \_\_\_\_\_

Reviewer's Title: \_\_\_\_\_

Organization: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_