

TITLE 11 LABOR AND WORKERS' COMPENSATION
CHAPTER 2 JOB TRAINING
PART 8 WORKFORCE INVESTMENT ACT (WIA) INDIVIDUAL TRAINING
ACCOUNTS (ITAs)

11.2.8.1 ISSUING AGENCY: New Mexico Department of Labor.
[11.2.8.1 NMAC – N, 7/1/2000]

11.2.8.2 SCOPE: The State Administrative Entity (SAE), New Mexico Workforce Development Areas/Local Workforce Development Boards (NMWDAs/LWDBs) and WIA Subrecipients.
[11.2.8.2 NMAC – N, 7/1/2000]

11.2.8.3 STATUTORY AUTHORITY: The Workforce Investment Act; Interim Final Rule at Sections 134(d)(4)(G) (Individual Training Accounts). Also the Federal Register Volume 64, Number 72, dated April 15, 1999, Sections 663.400 (How Training Services are Provided); 663.410 (What an Individual Training Account Is); 663.420 (Duration and Amount of ITA's); 663.430 (Under What Circumstances Mechanisms Other than ITA's Can Be Used to Provide Training Services); and 663.440 (Requirements for Consumer Choice) and any amendments thereto to the above references and Section 506(c), Pub. L.105-220; 20 U.S.C. 9276(c); New Mexico Workforce Development Act, New Mexico House Bill 740, Chapter 260, Laws of 1999, Forty-fourth Legislature.
[11.2.8.3 NMAC – N, 7/1/2000]

11.2.8.4 DURATION: Permanent.
[11.2.8.4 NMAC – N, 7/1/2000]

11.2.8.5 EFFECTIVE DATE: July 1, 2000 unless a later date is cited at the end of a section.
[11.2.8.5 NMAC – N, 7/1/2000]

11.2.8.6 OBJECTIVE: To provide WIA Subrecipients with guidance and instruction on the use of Individual Training Accounts (ITAs) for Workforce Investment Act training funds.
[11.2.8.6 NMAC – N, 7/1/2000]

11.2.8.7 DEFINITIONS: [RESERVED].
[11.2.5.7 NMAC – N, 7/1/2000]

11.2.8.8 ACTION: The Workforce Investment Act (WIA) states that, "Training services...shall be provided in a manner that maximizes consumer choice in the selection of an

eligible provider of such services" (Title 1, Section 134 (d)(4)(F) of WIA, [Consumer Choice Requirements]). To enable the participant to make a responsible and informed choice about where best to receive training, WIA requires Individual Training Accounts, a statewide list of eligible training providers, and consumer information regarding training providers. This policy provides mechanisms for the payment of training expenses to eligible training providers for the training of individuals using funds from the Workforce Investment Act and covers all payments for training excluding payments for on-the-job training and customized training. One-Stop Center utilization of ITAs is determined locally to provide the appropriate balance between accountability for training funds and effective customer service.

A. WIA mandates that all training services (except for on-the-job training and customized training) be provided through the use of ITAs on behalf of a participant.

(1) Eligible individuals shall receive ITAs through an account established by the One-Stop delivery system (Section 134(G) of WIA).

(2) WIA Title I adult and dislocated workers will purchase training services from eligible providers selected by them in consultation with the case manager (20 CFR Section 663.410).

(3) ITA payments may be made in a variety of ways including vouchers or other appropriate methods. Payments may also be made incrementally through payment of a portion of the costs at different points in the training course. (WIA Section 134(d)(4)(G)).

B. The ITA management systems of One-Stop operators must be in compliance with federal law and state policy.

C. ITAs are funded with adult and dislocated worker funds authorized under Title I of WIA.

D. Individuals may use ITAs in exchange for training services for skills in demand occupations from eligible training providers on the approved list (WIA Sections 134(F)(ii) and 134(G)(iii)). Training services shall be directly linked to occupations that are in demand in the local area, or in another area to which an adult or dislocated worker receiving such services is willing to relocate, except that a Local Board may approve training services for occupations determined by the Local Board to be in sectors of the economy that have a high potential for sustained demand or growth in the local area.

(1) Statewide, occupations in demand are those as assessed by the New Mexico Department of Labor Economic Research and Analysis Bureau that have an expected growth rate of 23% or more and annual job openings of 50 or more for the years 1998-2008, as described in the document entitled "New Mexico 2008, Economic Projections." This report evaluates future employment outlook for more than six hundred occupations. Information includes projected occupation demand for specific geographic areas of New Mexico, job duties, occupation profiles, industries and employers that utilize the occupations, training and education opportunities, licensing information and average wage per occupation. Hard copies of this document can be acquired from the Economic Research and Analysis Bureau. Internet access to this document, as well as the "Statewide Occupations in Demand" page, is available through the New Mexico Department of Labor web site at www.dol.state.nm.us.

(2) Labor Force & Nonagricultural Employment Tables locally are available by counties on the NMDOL web page and are updated periodically as conditions change.

(3) Approval for training in an occupation not listed as "in Demand" from either the NMDOL statewide or local list will be granted only upon written verification from at least five local area employers that jobs are readily available for entry level training program graduates and this

documentation must be maintained in the participant file.

(4) Whatever method is used by Service Providers to select an occupation for participant training, occupational demand must be documented.

E. The ITA policy and management process must be in written form and effective prior to final One-Stop operator certification.

F. Local Workforce Development Boards must develop policy incorporating the following and to include any changes which Local Boards decide to enact:

(1) How participants will receive assessment, counseling, and an individual development plan through intensive services prior to issuance of an ITA;

(2) How the participants will learn of the demand occupations or skills for which an ITA may be issued utilizing New Mexico Department of Labor Economic Research and Analysis Bureau website data related to statistical projections of job growth in New Mexico between 1998 and 2008 which can be used to identify and utilize projected occupational demand. Information includes projected occupation demand for specific geographic areas of New Mexico, job duties, occupation profiles, industries and employers that utilize the occupations, training and education opportunities, licensing information and average wage per occupation.

(3) How the use of the ITA will be limited to skills relevant to demand occupations and that are appropriate for the individual client;

(4) How the ITA policy will be communicated in simple, understandable language to customers of the One-Stop center;

(5) How the participant will have access to the list of eligible providers through the One-Stop system: Participants must be able to use their ITAs to procure services from any eligible training provider on the state list which is to be maintained statewide by the New Mexico Department of Labor;

(6) That the ITA will cover all books, fees, and other education materials in addition to tuition except for those covered by other forms of assistance such as Pell Grants, student loans, One-Stop programs other than WIA, etc. which must be utilized prior to receiving WIA funds:

The Act specifically states that WIA funds are to supplement other sources of training grants and requires that funds not be used to pay for the costs of training when Pell Grant funds or grant assistance from other sources are available to pay the costs: A WIA participant may enroll in a training program with WIA funds while an application for Pell Grant funds is pending, but the local workforce development area must be reimbursed for the amount of the Pell Grant used for training if the application is approved. Only that portion provided for tuition is subject to reimbursement;

(7) That the durational limit of an ITA for an individual participant, based on the needs identified in the individual employment plan, will be for no more than 104 weeks in any five (5) year period;

(8) That the allowable amount of training costs applicable to all ITAs is dependent upon the type of occupational skills training and the range of costs for such training and that the maximum amount of an ITA is not to exceed \$7,000;

(9) That exceptions to the durational and cost limitations may be allowed under extenuating circumstances and must be appropriately documented according to Local Area policies in the participant's records;

(10) That limitations established by State or Local Board policies must be described in the State or Local Plan, respectively, but should not be implemented in a manner that undermines the Act's requirement that training services are provided in a manner that maximizes customer choice in

the selection of an eligible training provider;

(11) That training may include vocational/occupational skills training for job specific skills leading to the attainment of a state license or certification (including the prerequisite courses required for acceptance into a vocational/occupational skills training program) and/or basic skills/academic remediation which includes basic math/English, English-as-a-Second Language, literacy training, GED preparation and employment skills enhancement and others leading to the attainment of a high school diploma or equivalent, or attainment of basic and employment skills competencies. These activities may also be considered to be pre-vocational short term training under intensive services. Employment skills enhancement allows the possibility of taking a single class or being enrolled into an abbreviated program as defined in "Part-time/short-term;"

(12) How the value of each ITA will be determined (e.g., will there be a cap on value, will the cap vary for certain institutions or occupations, populations, etc.). If so directed by the Local WDB, the One-Stop operator's policy may offer a higher ITA value for occupations highest in demand;

(13) A process for documenting how other sources of funding were sought first and why they are unavailable (e.g., Pell Grants, TAA, One-Stop programs other than WIA, etc.). A "Training Services Contributions and Cost-Sharing Format/Guidelines" is attached;

(14) The internal procedure for ITA issuance, including the appearance of the ITA document that is given to the participant, who may issue the ITA to the participant, what signatures are needed, and so forth. A "New Mexico Workforce Investment Act Individual Training Account (ITA) Voucher Format/Guidelines" is attached;

(15) A case management process for tracking expenditures of all resources paying for the individual's training, including the WIA Title I funds of the ITA;

(16) How the participant will be kept informed of his/her account status by the case manager, documentation of which will be maintained in each participant folder at the One-Stop center or the primary service provider site; and

(17) The method for disbursement of funds must comply with the Cash Management Improvement Act (CMIA) regarding the prohibition of pre-funding of accounts. Only training providers that are on the list of eligible providers shall be able to redeem ITAs for payment.

G. Exceptions to ITA's are specified in the Act at section 134(d)(4)(G)(ii) and Section 663.430 of the regulations and provide that, under certain limited circumstances, contracts for training rather than ITA's may be used. These include:

(1) On-the-job training contracts with employers and customized training contracts (see State Information Notice on this topic);

(2) Contracts which may be used when there is an insufficient number of eligible providers in a local area as determined by the Local Board to apply primarily to rural areas;

(a) The Local Plan must describe the process to be used in selecting the providers under a contract for services;

(b) The criteria for contracts for training shall include the financial stability of the organization (see State Information Notice "Workforce Investment Act Transition/Interim Procurement Activities Guidelines"); demonstrated performance in measures appropriate to the program including program completion rate; attainment of the skills, certificates or degrees the program is designed to provide; placement after training in unsubsidized employment; retention in employment; (these previous two standards are established by the USDOL in negotiation with the NMDOL), and how the specific program relates to the workforce investment needs identified in the

local plan;

(c) In the case of contracts for training, there must be at least a 30 day public comment period for interested providers;

(3) Contracts for training are also authorized when the Local Board determines that there are special populations that face multiple barriers to employment;

(a) As identified in Section 663.430(b), special participant populations that face multiple barriers to employment are populations of low-income individuals that are included in one or more of the following categories:

(i) Individuals with substantial language or cultural barriers;

(ii) Offenders;

(iii) Homeless individuals; and

(iv) Other hard-to-serve populations as defined by the Governor;

(b) There must be a training services program of demonstrated effectiveness offered by an eligible provider. Demonstrated effectiveness, when the exception for special populations is used, is determined by Local Board-developed criteria, particularly as it applies to the special participant population it proposes to serve. In the case of special population exceptions an eligible provider is a community based organization (CBO) or other private organization (Section 663.430(a)(3)). Those training providers operating under the ITA exceptions must additionally qualify as eligible providers, as required at Section 663.505;

(c) This exception is intended to meet special needs and should be used infrequently.

H. Provision of training services through ITAs is established for eligible individuals to finance training services. According to Section 663.400, except under the three conditions described in WIA section 134(d)(4)(G)(ii) and Section 663.430(a) [8.7.3 above], Local Boards may only provide training services under Section 663.430 if they receive a waiver from the Governor and meet the requirements of 20 CFR 661.310 and WIA section 117(f)(1).

I. The Act specifies requirements for consumer choice (Section 663.440) to encompass that:

(1) Training services, whether under ITA's or under contract, must be provided in a manner that maximizes informed consumer choice in selecting an eligible provider.

(2) Each Local Board, through the One-Stop center, must make available to customers the State list of eligible providers required in WIA section 122(e). The list includes a description of the programs through which the providers may offer the training services, the information identifying eligible providers of on-the-job training and customized training required under WIA section 122(h) (where applicable), and the performance and cost information about eligible providers of training services described in WIA sections 122(e) and (h).

(3) An individual who has been determined eligible for training services under Section 663.310 may select a provider after consultation with a case manager. Unless the program has exhausted funds for the program year, the operator must refer the individual to the selected provider and establish an ITA for the individual to pay for training. For purposes of this paragraph, a referral may be carried out by providing a voucher or certificate to the individual to obtain the training.

(4) The cost of referral of an individual with an ITA to a training provider is paid by the applicable adult or dislocated worker program under Title I of WIA.

J. Permissible local employment and training activities include utilization of:

(1) Funds allocated to a local area for adults under paragraph (2)(A) or (3), as

appropriate, of section 133(b) of the Act, and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide, through One-Stop delivery described in subsection (c)(2):

(a) Customized screening and referral of qualified participants in training services described in subsection (d)(4);

(b) Customized employment-related services to employers on a fee-for-service basis.

(2) Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide supportive services to adults and dislocated workers who are participating in programs with activities authorized in any of paragraphs (2), (3), or (4) of subsection (d); and who are unable to obtain such supportive services through other programs providing such services.

(3) Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide needs-related payments to adults and dislocated workers, respectively, who are unemployed and do not qualify for (or have ceased to qualify for) unemployment compensation for the purpose of enabling such individuals to participate in programs of training services under subsection (d)(4).

(4) In addition to the requirements contained in 8.10.3 , a dislocated worker who has ceased to qualify for unemployment compensation may be eligible to receive needs-related payments only if such worker was enrolled in the training services:

(a) by the end of the 13th week after the most recent layoff that resulted in a determination of the worker's eligibility for employment and training activities for dislocated workers under this subtitle; or

(b) if later, by the end of the 8th week after the worker is informed that a short-term layoff will exceed 6 months.

(5) The level of a needs-related payment made to a dislocated worker under this paragraph shall not exceed the greater of:

(a) the applicable level of unemployment compensation; or

(b) if such worker did not qualify for unemployment compensation, an amount equal to the poverty line, for an equivalent period, which amount shall be adjusted to reflect changes in total family income.

K. Eligible youth who are 18 through 21 years old, meeting the eligibility requirements under the applicable youth or adult criteria for the services received, may participate in youth and adult programs concurrently, as appropriate for the individual.

(1) Local program operators must identify and track the funding streams for services provided to individuals who participate in youth and adult programs concurrently, ensuring non-duplication of services.

(2) ITAs are not an authorized use of youth funds. Providers of youth services are competitively selected based on predetermined criteria, the judgment of Local Boards, and recommendations of youth councils about the providers' ability to meet the needs of youth participants.

L. ITAs are to be coordinated with other grant assistance. WIA funds are intended to supplement other sources of funding for training to individuals who are unable to find other grant assistance for training or whose financial needs exceed the assistance available from other sources.

One-Stop operators must ensure that duplicate payments are not made to training providers for the cost of training.

M. The attached forms may be adopted or modified by a NMWDA/LWDB to meet the needs of a local area. A NMWDA/LWDB may also choose to create its' own forms which must meet the minimum requirements of the State.

[11.2.8.8 NMAC – N, 7/1/2000; A, 5/15/01]]

11.2.8.9 RECISSIONS:

[11.2.8.9 NMAC – N, 7/1/2000]

11.2.8.10 CONTACT ENTITY: Inquiries regarding this policy should be directed to the New Mexico Department of Labor at (505)827-6827 in Santa Fe.

[11.2.8.10 NMAC – N, 7/1/2000]

11.2.8.11 DISTRIBUTION: NMWDA and LWDB Chairperson, SAE/NMWDA/LWDB Legal Counsel, NMWDA/LWDB Administrative Entities, SAE/NMWDA/LWDB EO Office, SAE Subrecipients, NMWDA/LWDA Subrecipients, USDOL Federal Representative and New Mexico State Records, Center and Archives.

[11.2.8.11 NMAC – N, 7/1/2000]

11.2.8.12 ATTACHMENTS: Three (3).

1. “New Mexico Workforce Investment Act Individual Training Account (ITA) Voucher Format/Guidelines”
2. “Training Services Contributions and Cost-Sharing Format/Guidelines”
3. “WIA Supportive Services Request and Approval Format/Guidelines”

[11.2.8.12 NMAC – N, 7/1/2000]