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STATE INSTRUCTION NUMBER 17-03

To: Local Workforce Development Board Chairs
Local Workforce Area Signatory Officials
Local Workforce Area Administrators

Subject: Incumbent Worker Training

Issuance Date: October 25, 2017

Effective Date: Immediately

Purpose: To provide guidance on the use of Workforce Innovation and Opportunity Act (WIOA) funds for Incumbent Worker Training (IWT) services.

Background: IWT provides both workers and employers with the opportunity to build and maintain a quality workforce. Training is intended to assist with expansion, new technology, retooling, new services/product lines, and/or new organizational structuring, or to be used as a layoff aversion strategy. IWT can be used to either:

- help avert potential layoffs of employees, or
- obtain the skills necessary to retain employment, such as increasing the skill levels of employees so they can be promoted within the company and create backfill opportunities for less-skilled employees.

IWT is not permitted to be used to provide the occupational training a new hire needs.

IWT may be provided using local funds, state reserve funds granted to local workforce areas to serve multiple businesses, or state rapid response funds to assist an individual business in averting layoffs.

Policy: Regardless of the source of WIOA funds used for IWT, there are common requirements related to business eligibility, worker eligibility, and reporting IWT in the SC Works Online Services (SCWOS) system.

Business Eligibility

- Each business must have at least one full-time employee and be current on all state tax obligations.
- Third parties or consortia acting on behalf of a group of employers are eligible recipients of IWT. Common examples of consortia include: business associations, industry councils, chambers of commerce, or downtown/community development corporations.
- Training entities/training providers are not eligible for IWT funding or to act on behalf of a business or group of businesses as a third party.

- City, county and state governments are not eligible for IWT funding.
- A business receiving services through ReadySC is not eligible for IWT funding.
- A business that has relocated resulting in the loss of jobs at the original location is not eligible for IWT funding. Such a business becomes eligible once operational in the new location for 120 days.

Worker Eligibility

- The incumbent worker must be employed by the business and meet the Fair Labor Standards Act requirements for an employer-employee relationship.
- The incumbent worker must have an established employment history with the employer for six months or more (which may include time spent as a temporary or contract worker performing work for the employer receiving IWT funds), with the following exception:
 - When IWT is being provided to a cohort of employees, not every employee in the cohort must have an established employment history with the employer for six months or more as long as a majority of those employees being trained meet the employment history requirement.
- Local Workforce Development Boards (LWDBs) must develop a process for documenting the six-month work history requirement for IWT recipients with the employer. The contract/agreement between the LWDB and the employer must include this as a term of the contract/agreement.
- An incumbent worker does not have to meet the eligibility requirements for participation in the Adult or Dislocated Worker program, unless also enrolled as a participant in the WIOA adult or dislocated worker program.

Performance Accountability and Reporting

All IWT activity must be reported in the SCWOS system. This includes both employer and trainee information. Individuals receiving only IWT are not considered participants for the purpose of inclusion in WIOA performance indicator calculations. However, the US Department of Labor (DOL) requires that all individuals receiving IWT be included in federal reporting. The required elements for IWT individuals are limited to basic information and the elements needed to calculate IWT performance indicators. Therefore, DOL encourages the collection of incumbent worker SSNs as part of the training contract/agreement with the employer so that wage records will be available for these individuals. If no SSN is available, LWDBs may utilize supplemental wage information to verify the wages reported.

Use of Local Funds

LWDBs may use up to 20 percent of their combined total adult and dislocated worker allocated funds for the cost of providing IWT.

In addition to the *Business Eligibility* criteria noted above, LWDBs must also take into account the following factors when determining eligibility for participation in IWT:

- The characteristics of the individuals who would receive training (e.g. individuals with barriers to employment); NOTE: Staff must maintain and store Equal Opportunity information in a manner that ensures confidentiality in accordance with 29 CFR §38.41 and State Instruction Number 16-11.

- Whether the training improves the labor market competitiveness of the employees or both the employees and the employer; and
- Other factors the LWDB may consider appropriate, including:
 - the number of employees participating in the training;
 - wage and benefit levels of those employees (both pre- and post-training earnings);
 - the existence of other training and advancement opportunities provided by the employer;
 - credentials and skills gained as a result of the training;
 - layoffs averted as a result of the training;
 - utilization as part of a larger sector and/or career pathway strategy; or
 - employer size.

Employers participating in IWT are required to pay for a share of the cost of providing the training to incumbent workers. LWDBs must establish policies regarding the employer share.

- The employer share can be met through cash payments, fairly evaluated in-kind contributions, or both.
- The employer share must not come out of any other Federal funds.
- The employer share may include the wages the employer pays to the incumbent worker trainee while the worker is attending training.
- In establishing the employer share of the IWT cost, LWDBs must take into consideration such factors as:
 - the number of employees participating in training;
 - the wage and benefit levels of these employees (at the beginning and anticipated upon completion of the training);
 - the relationship of the training to the competitiveness of the employer and employees; and
 - the availability of other employer-provided training and advancement opportunities.
- The minimum amount of employer share in the IWT depends on the size of the employer and may not be less than:
 - 10 percent of the cost, for a business location with not more than 50 employees;
 - 25 percent of the cost, for a business location with more than 50 employees but not more than 100 employees; and
 - 50 percent of the cost, for a business location with more than 100 employees.
- Employer shares must be reported on the Financial Status Report (FSR).

Use of State Reserve Funds

In addition to the *Business Eligibility* criteria noted above, LWDBs must also take into account the following factors when determining eligibility for participation in IWT:

- The characteristics of the individuals who would receive training (e.g. individuals with barriers to employment); NOTE: Staff must maintain and store Equal Opportunity information in a manner that ensures confidentiality in accordance with 29 CFR §38.41 and State Instruction Number 16-11.
- Whether the training improves the labor market competitiveness of the employees or both the employees and the employer; and

- Other factors the LWDB may consider appropriate, including:
 - the number of employees participating in the training;
 - wage and benefit levels of those employees (both pre- and post-training earnings);
 - the existence of other training and advancement opportunities provided by the employer;
 - credentials and skills gained as a result of the training;
 - layoffs averted as a result of the training;
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 - the number of employees participating in training;
 - the wage and benefit levels of these employees (at the beginning and anticipated upon completion of the training);
 - the relationship of the training to the competitiveness of the employer and employees; and
 - the availability of other employer-provided training and advancement opportunities.
- The minimum amount of employer share in the IWT depends on the size of the employer and may not be less than:
 - 10 percent of the cost, for a business location with not more than 50 employees;
 - 25 percent of the cost, for a business location with more than 50 employees but not more than 100 employees; and
 - 50 percent of the cost, for a business location with more than 100 employees.
- Employer shares must be reported on the Financial Status Report (FSR).

Use of Rapid Response Funds

In addition to the *Business Eligibility* criteria noted above, state rapid response funds may only be used for IWT to assist an individual business in averting layoffs. A layoff is considered averted when:

- a worker's job is saved with an existing employer that is at risk of downsizing or closing; or
- a worker at risk of dislocation transitions to a different job with the same employer or a new job with a different employer and experiences no or a minimal period of unemployment.

The use of Rapid Response funds for IWT requires criteria to determine a layoff risk, and when and whether IWT is an appropriate response. Consideration must be given as to whether, absent the

training, a good job will be lost or degraded, and whether with the training the job will be retained or improved. The following employer and worker group assessment criteria must be used in making such determinations.

Employer Assessment

- The company remains open, but it is phasing out a function which will lead to layoffs unless the workers can be retrained to perform new functions.
- A worker's job has changing skill requirements as a result of external economic or market forces, significant changes in technology or operating processes, rapidly changing industry or occupational job requirements, or emergence of new products.
- The changing skill requirements are outside of normal skill growth and upkeep that would be provided by the employer.
- Training programs reasonably prepare workers to address skill gaps.
- The employer demonstrates a commitment to retain employees or otherwise provide a tangible benefit to employees who receive IWT.

Worker Group Assessment

- Unless provided with training, the potentially laid-off workers do not have marketable, in-demand skills.
- The new skills can be attained in a reasonable period of time.
- The workers have not received formal layoff notices. Such workers can be served with regular WIOA dislocated worker funds.
- There exists a strong possibility of jobs, either with the existing employer or a new employer, if the potentially laid-off workers attain new skills.

IWT provided with rapid response funds must adhere to the following requirements.

- A no-cost, competitiveness review of the business will be conducted by the South Carolina Manufacturing Extension Partnership (SCMEP) prior to the completion of an IWT application. Such review will:
 - reveal/confirm limiting factors holding the business back;
 - provide a snapshot of how the business is performing in comparison to other companies; and,
 - provide a roadmap to improve competitiveness, performance and the bottom line.The results of the review must reveal that layoffs would be imminent without intervention. The roadmap for improvement must confirm a need for employee training and identify the specific training needs in order to utilize funds for IWT.
NOTE: A substantially similar review recently conducted of the business, by a third party, may be used in lieu of a review conducted by SCMEP.
- Training providers are to be chosen at the discretion of the employer.
- Training must be completed within 12 months.
- Employers are not required to pay for a share of the cost of providing the training to incumbent workers.

- IWT funds will be used only to address the training needs identified in the SCMEP, or other third party, review.
- All IWT delivered is restricted to skill attainment activities.
 - The training must result in skills that directly benefit the workers receiving the training by making them more qualified in their field of employment and/or providing new skills for new product lines or processes.
 - The skills attained through training should contribute to the maintenance of employment or increase in employment security for workers.
- Training should:
 - help to qualify workers for a job with changing skill requirements or for higher paying jobs with their existing employer or other companies in the area;
 - enable trainees to perform work that is at a higher level than their current positions; and
 - offer certification or other industry-recognized credentials.
- IWT applications must be reviewed and approved by the Department of Employment and Workforce. The attached form and documentation of a detailed business review must accompany each IWT application submitted to the State. This information will be used in ensuring that rapid response-funded IWT requests adhere to the above criteria.

Action: Ensure that all appropriate staff receive and understand this policy.

Inquiries: Questions may be directed to Nina Staggers at (803) 737-0543 or NStaggers@dew.sc.gov.



Patricia Sherlock, Director
Policies and Procedures

Attachment

Incumbent Worker Training

Layoff Aversion Assessment

Incumbent Worker Training (IWT) funded through state rapid response funds may be used to assist an individual business in averting layoffs. A layoff is considered averted when: a worker's job is saved with an existing employer that is at risk of downsizing or closing, or a worker at risk of dislocation transitions to a different job with the same employer or a new job with a different employer and experiences no or a minimal period of unemployment.

The use of Rapid Response funds for IWT requires a determination of layoff risk, and when and whether IWT is an appropriate response. Consideration must be given as to whether, absent the training, a good job will be lost or degraded, and whether the job will be retained or improved with the training.

This form should be used by the local area to assess whether layoff aversion IWT is an appropriate response to current business circumstances.

1. Business Information
Business Name:
Address:
Please describe the business, its product(s) and/or service(s):

2. Employer Assessment		
In addition to IWT, explain the other components of the business's layoff aversion strategy.		
Do business circumstances point to probable layoffs? <i>For example: the business is phasing out a function or the business has recently lost a major contract</i>	<input type="checkbox"/> yes	<input type="checkbox"/> no
If yes, please describe the business's circumstances:		
Are the workers' jobs threatened by changing skill requirements?	<input type="checkbox"/> yes	<input type="checkbox"/> no

If yes, please describe the changing skill requirements:		
Are the skill requirements outside the normal growth and upkeep that would be provided by the employer?	<input type="checkbox"/> yes	<input type="checkbox"/> no
If yes, please explain below:		
Does the employer demonstrate a commitment to retain employees who receive training?	<input type="checkbox"/> yes	<input type="checkbox"/> no

3. Worker Group Assessment		
Have the workers received formal layoff notices? (If yes, serve these workers with regular WIOA Dislocated Worker funds.)	<input type="checkbox"/> yes	<input type="checkbox"/> no
Does the IWT program as proposed address the employees' existing skills gap?	<input type="checkbox"/> yes	<input type="checkbox"/> no
If yes, please explain how below:		
Is there a strong possibility of jobs, either with the existing employer or a new employer, if the workers attain new skills?	<input type="checkbox"/> yes	<input type="checkbox"/> no
If no, please describe the benefit(s) received from this proposed training:		
Can the threatened workers attain the required skills in a reasonable period of time (i.e., no longer than 12 months)?	<input type="checkbox"/> yes	<input type="checkbox"/> no
If no, please describe why:		

4. Training Assessment		
Does the training proposed match the training needs identified in the SCMEP or other third party business review?	<input type="checkbox"/> yes	<input type="checkbox"/> no
Is the training proposed restricted to skill attainment activities?	<input type="checkbox"/> yes	<input type="checkbox"/> no
If no, please explain below:		

Will the training result in making workers more qualified in their field of employment?	<input type="checkbox"/> yes	<input type="checkbox"/> no
If no, please explain the benefit(s) received from this proposed training:		
Does the training offer certification or other industry-recognized credentials?	<input type="checkbox"/> yes	<input type="checkbox"/> no
If no, please explain the benefit(s) received from this proposed training:		

5. Local Review		
Based on information regarding the business, worker group(s) and training proposed, this IWT application appears to meet the requirements for using WIOA funds restricted to layoff aversion.	<input type="checkbox"/> yes	<input type="checkbox"/> no
Comments		
Completed by:		
Title:	Date:	
Date SCMEP Competitiveness Review (or similar review of business) completed:		
Business review attached:	<input type="checkbox"/> yes	<input type="checkbox"/> no

6. State Authorization		
Based on the above information and the business review conducted with the company, it has been determined that the company is at risk of a layoff and that IWT is an appropriate response. Further, the requirements for using WIOA funds restricted to layoff aversion have been met.	<input type="checkbox"/> yes	<input type="checkbox"/> no
Comments		
Signature:		
Title:	Date:	