

Policy Number: 2016-1027.1-CTP

Effective Date

This policy shall go into effect immediately upon passage.

Purpose

This policy will provide local guidance on the requirements for customized training.

Background

Under the Workforce Innovation and Opportunity Act (WIOA), work-based training is defined as being employer-driven with the goal of unsubsidized employment after participation. Work-based training involves a commitment by an employer or employers to fully employ participants who have successfully completed the program. In addition, work-based training can be an effective strategy providing additional opportunities for participants and employers in both finding quality work and in developing a quality workforce. Work-based models can effectively be used to target specific job seekers and employer needs.

Customized training is one type of work-based training and is designed to meet the specific requirements of an employer or group of employers.

Definitions

Customized Training: The term customized training, as defined in [29 USC § 3102\(14\)](#), means training

- A. that is designed to meet the specific requirements of an employer or group of employers;
- B. that is conducted with a commitment by the employer to employ an individual upon successful completion of the training; and
- C. for which the employer pays—
 - a. a significant portion of the cost of training, as determined by the local board involved, taking into account the size of the employer and such other factors as the local board determines to be appropriate, which may include the number of employees participating in training, wage and benefit levels of those employees (at present and anticipated upon completion of the training), relation of the training to the competitiveness of a participant, and other employer-provided training and advancement opportunities; and
 - b. in the case of customized training (as defined in subparagraphs (A) and (B)) involving an employer located in multiple local areas in the State, a significant portion of the cost of the training, as determined by the

Governor of the State, considering the size of the employer and such other factors as the Governor determines to be appropriate.

Requirements

Section 134 (c)(3)(D) of WIOA defines eleven types of training services available to adults and dislocated workers, including customized training. Customized training may be offered to qualifying individuals through formula-funded programs or as a type of incumbent worker training. In cases where customized training formula-funded, participants must meet adult or dislocated worker eligibility requirements prior to starting the training.

Customized training is intended to meet the needs of a specific employer or a group of employers including employer consortiums. This training may be intended as a way of introducing innovative technologies, new procedures used in production or service delivery, skills enhancement or upgrades, or other appropriate purposes approved by the Workforce Development Board. Employers participating in customized training must commit to employing or continuing to employ trainees upon successful completion of the program. Customized training must also enable participants to obtain industry or employer-recognized skills.

Training may be provided through individual training accounts (ITA) or through contracted training services. If the training is conducted through an ITA, all ITA requirements must be followed, including the use of State-approved eligible training providers. If the employer or employers contract with a training provider, proper procurement procedures must be utilized.

Business Considerations

A customized training agreement cannot be entered into with an employer who has shown a pattern of failing to retain individuals following successful completion of training.

Businesses that fail to meet any of the following qualifying criteria are not eligible to receive funds for customized training:

- 1) Businesses must not be presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in transactions by USDOL or the state of Ohio. Below are three websites that may be helpful in checking tax, environmental compliance, and debarment status.
 - Federal Debarment Site: <http://www.sam.gov>
 - Ohio Department of Taxation: <http://www.tax.ohio.gov>
 - Business Filing Search: <http://www.sos.state.oh.us>

- 2) Businesses must not have any outstanding tax liability for over six months to the state of Ohio. The local service provider will require the businesses to disclose any known outstanding tax liabilities with other states prior to entering into contract. The local provider may consider existing out-of-state violations when determining eligibility to receive customized training funds. The service provider must document any resolution of outstanding tax liability, which may include letters from the business or from the State from which the tax liability occurred.
- 3) Businesses must ensure that they do not have more than one unfair labor practice contempt of court finding, and that they are not identified as such on the most recent list established by the Secretary of State.
- 4) Ohio businesses must have all the approvals, licenses, or other qualifications needed to conduct business in the state and all must be current. Should this status change during the local customized training program activities and the business be disqualified from conducting business in Ohio, all training under the customized training program must cease.
- 5) Governmental entities, including the city, county, and state, may not participate in the local customized training program. Health care providers that are operating as not-for-profit entities are the only allowable exceptions to this prohibition.
- 6) Businesses that have employees in a lay-off status should not be considered for customized training unless the training would avert additional layoffs.
- 7) Businesses that have relocated to Ohio and have laid-off workers at their former location in the United States may not be considered for this program until they have been in operation at the new location for 120 days.

To verify that a business is not relocating employment from another area, a pre-award review must be undertaken and documented by the local service provider. The review must include the names under which the establishment conducts business, including predecessors and successors in interest; the name, title, and address of the company official certifying the information, and whether WIOA assistance is being sought in connection with past or impending job losses at other facilities of their company. The pre-award review should also include a review of whether appropriate notices have been filed, as required by the Worker Adjustment Retraining Notification (WARN) Act. The review may also include consultations with labor organizations and others in the affected local area(s).

- 8) Businesses must not have any outstanding civil, criminal, or administrative fines or penalties owed to or pending in the state of Ohio.

Training Considerations

Customized training programs will address:

1. Occupations in industries that have documented skill shortages. Careers listed on the local and State in-demand occupations list, high wages, excessive costs for recruitment, or positions that remain unfilled for prolonged periods of time may be indicators of skills shortages in the current workforce, and
2. Development of the skills in the current workforce which may lead to enhanced career pathways for individual employees.

Training providers should have satisfactory past performance, accreditation, curricula that lead to credentials, relevant training experience and programs, accredited instructors, high job placement rates, and/or high training completion rates. Training providers should also meet acceptable minimum retention rates for trainees in their field or occupation of training.

The training facility should provide an environment that supports learning and be within reasonable proximity to the participant. The training may take place in the business owned facility, a training provider's facility, or combination of sites.

Training Agreements

Customized training agreements may be written for unemployed as well as employed workers. This type of training may be provided to an eligible employed individual when the employee is not earning a sufficient wage as determined by the local workforce development area's policy, the requirements of a customized training are met, *and* the training relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, or other locally defined purposes.

Employed workers may include full-time, part-time, and/or workers placed through private placement agencies. When the planned training includes workers placed through private agencies, both the agency and the employer should be included in the contract. This is to ensure that all parties agree that successful completion of the customized training will include the placement of the trainees into permanent employment.

Unless the trainee is unemployed, in order to participate in customized training, an "employer-employee" relationship must exist between the trainee and the business that is seeking local WDB approval to perform customized training. Individual workers who are independent contractors are not eligible to participate in customized training. Independent contractors fall under the category of self-employment. Trainees must meet the definition of employment found in rule [4141-3-05](#) of the Ohio Administrative Code (OAC).

The Customized Training Agreement must include the following:

- 1) Good and effective agreements will include:
 - a. The occupation for which training will be provided; the skills and competencies to be achieved and the length of time for the training;
 - b. The industry- or employer-recognized credential that will be attained upon completion of the training;
 - c. The number of employees to be trained;
 - d. The employer's assurance that customized training is needed, based upon the individual skill sets of trainees;
 - e. The method and maximum amount of reimbursement (employer match);
 - f. Job description(s) of the trainees and a training outline;
 - g. The cost and documented description of any ancillary items or supportive services that may be needed; and
 - h. Other appropriate training outcomes related to the training (i.e., increases in earnings).
- 2) Customized training agreements are to contain appropriate assurances and certifications as specified in this issuance.
- 3) Written endorsement from a union official is required when the workplace is covered by a collective bargaining agreement.

When working with a group of employers or an informal consortium, the local WDB may select a lead employer with whom to contract and any additional details required. If the consortium is a legal entity and the participating employers agree on their match requirements, the local WDB may contract with the consortium directly and the match requirement would be paid by the consortium. It is also allowable to enter into individual contracts with each participating employer with the consortium. Regardless of what entity the contract is with, all requirements, expected outcomes, and assurances described in this issuance must be met.

Prior to executing a training agreement, the local workforce area must obtain a commitment from the participating employer or employers of the following:

- 1) That successful completion of the customized training will result in portable skills, and retention and placement of the trainee into permanent employment that offers good pay and benefits, with opportunities for career advancement;
- 2) That continued training will be provided for trainees who need help with remedial skills or other skills necessary to retain their jobs after completion of customized training; and
- 3) That training will be aligned with industry or employer recognized skill standards, as defined by the WIB and/or the employer.

Allowable and Unallowable Costs for Customized Training

Allowable costs may include only costs directly related to training. Examples of allowable costs include, but are not limited to the following:

- 1) Instructor or trainer training-related wages;
- 2) Curriculum development; and
- 3) Textbooks, instructional equipment, manuals, materials, and supplies.

Unallowable costs for customized training include, but are not limited to:

- 1) Trainees' benefits or fringes;
- 2) Wages of trainees while attending customized training;
- 3) Costs that are not directly related to customized training for eligible individuals under Title I;
- 4) Foreign travel;
- 5) Purchase of capital equipment.

Local Workforce Development Area Policy

Customized Training is available to any size business provided the business is currently registered and in good standing with the Ohio Secretary of State, can provide a Federal Employer Identification Number, a State of Ohio Tax Identification Number, and a State of Ohio Unemployment Compensation Number. A *Certificate of Good Standing* may be requested.

The company will also be required to provide the total number of workers employed by the company at the time the training is requested, the number of individuals who will be participating in the training, the wage and benefit levels of those trainees both prior to and upon completion of the training, how the training is relevant to both the company and the workers, and how the training will improve the competitiveness of both. Also, the company may be asked to provide information about additional employer-provided training and advancements available to the workers.

Although the intent is that any company can potentially access Customized Training, priority will be given to businesses in high-demand industries identified by the WDB. This industry list is subject to change over time and priority access will be determined using the list in effect at the time the training is requested. As a result, a company may be on the industry priority list one year but may not be in the following year.

For the Customized Training to be approved, workers must be earning at more than 200% of the Federal Poverty Level for their family either at the beginning or the end of the training. If workers are earning below that level at the start of the training, they must receive sufficient increases and be earning above the 200% threshold upon completion of the program.

Employer Match Requirements

Customized Training is designed to offset a portion of the costs incurred by a company when training workers and is not intended to be considered a grant for the full costs. As a result, employers are expected to provide a “match” toward the training costs. This

match may be in cash, or in-kind but in-kind contributions will require documentation illustrating how they benefit the training program. Also, the employer match cannot include federal, state, or other grant funds.

To determine the match amount, this two-step process should be followed:

Step 1 is to identify the individual training items and establish the total training budget. This budget may include trainee wages while attending training and the wages can count for the employer match. However, the WIOA costs cannot include trainee wages.

Step 2 is to calculate the employer match and the WIOA cost. This calculation varies based upon allowable and unallowable WIOA costs. Typically, the variable is the trainee wages.

If trainee wages are less than or equal to the employer match, an adjustment is not necessary. Just multiply the total budget by the selected percentage to establish the employer and WIOA expense.

If trainee wages are greater than the employer match, an adjustment is necessary to prevent unallowable WIOA costs. When calculating the employer match and the WIOA costs, subtract the excess wages over selected percentage.

Monitoring

Customized Training Agreements will be monitored following the same guidelines used to monitor other WIOA Title I service providers. Details of that process are included in the WDB [Monitoring and Oversight Procedure Guide](#).

Through the state's monitoring system, program monitors will review the local area's implementation of the WIOA customized training program, including a participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state's monitoring resolution process.

References

[Workforce Innovation and Opportunity Act, §§ 3\(14\), 106, 134\(c\)\(3\)\(D\), Public Law 113-128](#)

[20 C.F.R. § 680.760](#)

[20 C.F.R. § 680.770](#)

[2 CFR Part 200, Appendix II](#)

[O.A.C. 4141-3-05](#)