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STATE INSTRUCTION NUMBER 20-08

To: Local Workforce Area Signatory Officials
Local Workforce Area Board Chairs
Local Workforce Area Administrators
DEW Area Directors
DEW Regional Managers

Subject: Local and Statewide Incumbent Worker Training Policy

Issuance Date: April 23, 2021

Effective Date: July 1, 2021

Purpose: To provide guidance on the operation of Incumbent Worker Training (IWT) programs funded through local WIOA Title I Adult and Dislocated Worker program funds (local IWT) and Governor's Reserve or Statewide program funds (statewide IWT). Unless otherwise specified, the provisions outlined below apply to both local and statewide IWT programs. **This policy guidance replaces State Instruction 17-03, Change 1.**

References:

- Workforce Innovation and Opportunity Act, Public Law 113-128 § 134(d)(4)
- 20 CFR §§ 680.780 – 680.820
- Training and Employment Guidance Letters 10-16, Ch. 1; 19-16
- State Instruction 19-01

Background: IWT provides both workers and employers with the opportunity to build and maintain a skilled 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 part of a layoff aversion strategy. IWT is conducted with a commitment by the employer to retain the incumbent worker(s) trained and to increase the competitiveness of the employee and the employer.

Policy: IWT is designed to meet the needs of an employer or group of employers to retain a skilled workforce or avert layoffs. IWT can be used to either:

- 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, or
- Help avert potential layoffs of employees.

The ideal IWT is one where a participant acquires new skills allowing him/her to move into a higher paying position within the company, allowing the company to hire a job seeker, through the WIOA program, to backfill the worker's position.

IWT forms and templates needed by the LWDA to manage IWTs may be found under Staff Online Resources in South Carolina Works Online Services (SCWOS), as well as instructions for managing IWTs in SCWOS.

Business Eligibility

An employer that is eligible to apply for IWT funding must:

- be a South Carolina for-profit or non-profit business;
- have at least one full-time employee other than the owner of the business;
- be current on all state tax obligations;
- be registered in SCWOS and have an active employer account; and
- agree to comply with this policy.

Training entities and government employers (city, county, state, and/or federal) are not eligible for IWT funding. Businesses receiving services through readySC™, and/or other training providers, may be eligible for IWT as long as the training funded is not a duplication of services provided through another funding source. IWT funds are not available to a business that has relocated, if that relocation resulted in the loss of jobs at the original location, until the company has operated at that new location for 120 days. A business that has recently relocated to, or is expanding into, a Local Workforce Development Area (LWDA) must complete the WIOA IWT Program Pre-Award Review in order to receive IWT funding from that LWDA.

A group of employers may form a training consortium for the purposes of receiving IWT. Common examples of training consortia include, but are not limited to business associations, industry councils, chambers of commerce, or downtown/community development corporations. The training consortium, or a third party representing the training consortium, may apply for IWT on behalf of the group of employers but cannot serve as the training provider and is not eligible to receive any funding as payment for their services. IWT funding may not be used for members of a training consortium who would otherwise be ineligible for IWT, i.e., training entities and city, county, and state governments.

Employee/Worker Eligibility

To qualify as an incumbent worker, the worker needs to be:

- Employed;
- Meet the Fair Labor Standards Act requirements for an employer-employee relationship; and
- Have an established employment history with the employer for six months or more.

Individuals who do not have an employer-employee relationship include the following:

- Employees who are placed through a staffing or temporary agency
- Employees who receive a 1099 for tax filing purposes

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 the employees being trained meet the employment history requirement. A "majority of employees" is defined as at least 51 percent of the employees in the training group or cohort. Periods of temporary employment may count towards an employee's time with the company for purposes of meeting the six-month employment history requirement. Local Workforce Development Boards (LWDB) must develop a process for documenting the employment history requirement for IWT participants, and the agreement between the LWDB and the employer must include the employee work history requirement. LWDBs may use the Employer Self-Attestation Form to document the employer's understanding of the employment history requirement.

Employees do not have to meet the eligibility requirements for participation in the Adult or Dislocated Worker programs, unless also enrolled as a participant in the WIOA Adult or Dislocated Worker programs.

Funding for IWT

LWDBs can use up to 20 percent of their combined Adult and Dislocated Worker allocation to cover the federal share of IWT.

Example:

If a LWDB received \$1.5 million in Adult funds and \$1 million in Dislocated Worker funds, it may use up to \$500,000 (20% of the total) for IWT. This 20 percent can only be used for program-related IWT activities.

The State Workforce Development Board (SWDB) can use Governor's Reserve funds to cover the federal share of IWT.

Employer/Training Consortium Share

Employers/training consortia participating in IWT are required to pay the non-federal share of the cost of providing training to their employees. The non-federal share shall not be less than:

- 10 percent of the cost of training for a business location with no more than 50 employees;
- 25 percent of the cost of training for a business location with more than 50 employees, but no more than 100 employees; or
- 50 percent of the cost of training for a business location with more than 100 employees.

A training consortium shares in the cost of training incumbent workers based on the total number of employees from all employers in the training consortium. It is the responsibility of the training consortium to determine how to split the cost between the employers in the consortium. This may be done in multiple ways, but it is recommended that the division of costs be determined based on each employers' proportionate share of employees.

Example:

A group of employers has formed a training consortium comprised of three businesses with a combined total of 100 employees. The total cost of training is \$100,000. Based on the combined number of employees, the training consortium is required to pay 25 percent of the cost of training or \$25,000. Each business in the training consortium will pay a proportionate share based on each business' number of employees.

Total Training Consortium Share = \$25,000

Business #1: 10 employees = \$2,500

Business #2: 40 employees = \$10,000

Business #3: 50 employees = \$12,500

The employer share may be paid in cash, in kind, or through wages paid to incumbent workers while attending training. The business' share cannot be paid from federal funds. When wages are used as the employer share, documentation of actual wages paid to each individual worker during training must be provided. At the conclusion of the training, should the amount of actual wages paid fall short of the required non-federal share, then the business must pay the difference in cash.

LWDB's must establish policies regarding the employer share. When establishing the employer share, LWDBs must take into consideration factors such 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 between the training and the competitiveness of the employer and employees; and
- The availability of other employer-provided training and advancement opportunities.

Employer shares must be reported on the Financial Status Report (FSR) submitted each month by the LWDA.

Training Services

Businesses are typically in the best position to assess employee skill needs and to select the type of training and training provider that can fulfill those needs. However, LWDA's are encouraged to prioritize training that results in a credential or helps an employee advance along a career pathway in high-growth, high-demand occupations.

Training providers can be any of the following:

- Technical Colleges
- School Districts
- Adult Education Programs
- Area Vocational-Technical Centers
- State Colleges and Universities
- Licensed and Certified Private Entities/Institutions
- Industry Specific Consulting/Training Organizations
- Professional Associations/Credentialing Entities
- Registered Apprenticeship Programs

Training funded through IWT cannot be provided by employer staff, regardless of the staff person's position or credentials. Training must be provided by a training provider external to the business, and may be conducted at the business' own facility, the training provider's facility, online or remotely, or at a combination of sites.

The following types of training are **not eligible** for IWT funding:

- Periodic safety and refresher courses such as all forms of Occupational Safety and Health Administration (OSHA) trainings
- First Aid and CPR certifications
- Hazardous material handling training

International Organization of Standardization (ISO) training may be eligible for the purposes of developing a quality management system in order to earn ISO certification.

Reimbursements

IWT is a reimbursement grant program wherein the business is reimbursed for actual training costs following the completion of training.

Costs that can be reimbursed through the grant include the following:

- Training/Course Registration
- Textbooks/Manuals
- Training Materials/Supplies

Costs that cannot be reimbursed through the grant include the following:

- Administrative costs incurred by the business/training consortium
- Trainee wages or travel
- Trainer travel
- Training equipment
- Capital improvements
- Curriculum development
- Purchase of any item or service that may be used outside of the training project (including computer equipment and non-training related software)
- Costs incurred prior to the approval date of the application

Application, Evaluation, and Award

IWT funding is awarded on a competitive basis. When evaluating applications, LWDAs must consider the following criteria:

- The characteristics of the employees to be trained (job title(s) and length(s) of employment to include date of hire);
- The relationship of the training to the competitiveness of both the employer and employee; and
- Other factors the LWDA determines to be appropriate, including:
 - The number of employees participating in the training;
 - Total cost of training;
 - Cost of training per participant;
 - Wage and benefit levels of those employees (both pre-training 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;
- Utilization as part of a larger sector and/or career pathway strategy; or
- Employer size.

LWDBs are strongly encouraged to prioritize the following:

- Technical skills training that results in or provides a significant step towards achieving an industry-recognized certification or credential,
- Training that will result in a pay increase or promotion,
- Small businesses and/or employers that are located in rural areas of the state,
- High-growth or high-demand industries in the area or statewide; and
- Upskill/backfill strategies which involve filling jobs vacated by workers who are moving into more advanced positions in the company, as a result of IWT, with WIOA participants.

LWDAs must submit a completed IWT Agreement Packet (sub-tier agreement) to DEW, for each business/training consortium that received IWT funding, **within 30 days of executing the IWT agreement** with the participating business/training consortium. Additionally, the LWDA must submit a Final Program Report, including a trainee list, **no more than 30 days after the end of the sub-tier agreement**. **LWDAs are not required to submit sub-tier agreements or final reports on an IWT that is funded through local Adult/DW funds.**

Staff must maintain and store trainee/participant information in a manner that ensures confidentiality in accordance with 29 CFR 38.41 and State Instruction 16-11, Confidentiality of Equal Opportunity Records, including keeping all Personally Identifiable Information (PII) or legally sensitive information (e.g., information about divorce proceedings or custody battles) in a separate locked file. **PII and legally sensitive information must never be included in a case note or document uploaded to SCWOS.**

Performance Accountability and Reporting

IWT must be tracked in SCWOS as both an employer service and a participant activity:

- Employer service codes record the employer penetration rate and repeat business customers as required for reporting on Effectiveness in Serving Employers. Employer service code E40, WIOA State or Local IWT, must be entered in SCWOS within 15 days of executing the IWT agreement on an active employer account.

- Activity code 325, Locally-Funded IWT, is used when the employer is participating in locally-funded IWT, and activity code 360, State-Funded/Statewide IWT, is used when the employer is participating in statewide IWT. Trainee/participant activity codes must be entered within 15 days of the activity start date and closed within 15 days of the last date of activity on a registered individual account with an active WIOA application for IWT.

Individuals receiving IWT only 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 demographic information and the elements needed to calculate IWT performance indicators, including employment, earnings, measurable skills gains, and credential attainment. For the purposes of calculating these metrics, the exit date for an individual who has received only IWT will be the last date of training, as indicated in the training contract.

Prior to the start of training, the business/training consortium must provide the LWDA with a list of employees who will participate. A template for the employee list is available in SCWOS under Staff Online Resources that includes sufficient documentation to identify the correct employee in SCWOS for completion of the WIOA application and entering relevant activities. LWDA's should refer to the SCWOS Instructions for IWT, found in SCWOS under Staff Online Resources, for step-by-step instructions on entering and managing employer and participant data in SCWOS..

WIOA § 116(i)(2) requires states to use quarterly wage records to measure progress on satisfying state and local performance accountability indicators. Therefore, DOL encourages the collection of incumbent worker SSNs as part of the training contract with the employer so that wage records will be available for these individuals. If no SSN is available, the state or LWDA may utilize supplemental wage information to verify the wages reported.

To eliminate the need for the business/training consortium to provide the employee's full SSN to the LWDA, employees should register in SCWOS using their full SSN once identified as an IWT participant, but no later than the first day of training. Subsequent documentation provided by the business to the LWDA only needs to include the last four digits of the employee's SSN or the employee's State Identification Number to identify the employee in SCWOS.

IWT should result in the following outcomes:

- Training Completions
- Credential Attainment
- Employee Retention
- Wage Increases
- Promotions

Throughout the training, the business/training consortium must provide and maintain sufficient documentation of training occurrence and outcomes, including:

- Title and a description of training
- Dates of training
- Number of employees who completed the training program
- Type and a description of the credential(s) earned
- Number of employees who earned a credential
- Number of employees who earned a wage increase
- Number of employees who earned a promotion
- Number of new jobs created
- Number of existing jobs saved
- Layoff or closure
- Other outcomes

The business/training consortium is required to submit program reports as required by the LWDA, including the Trainee Progress Report and a Final Program Report within 30 days of the training Actual End Date. Reporting templates can be found in SCWOS under Staff Online Resources. The information listed above will be required for submission of these reports and SCWOS data entry, and may be needed for any additional reporting required by the LWDA or SWDB.

The final payment for expenditures incurred as a result of the IWT program must be withheld until the Final Program Report is submitted and all documentation of performance criteria specified in the agreement has been received.

IWT Forms, Template, and Instructions

DEW will provide standardized forms and templates for use by LWDAs in the administration of local and statewide IWT programs. The forms will be available for download in SCWOS Staff Online Resources. At a minimum, DEW will maintain the following forms/templates:

- IWT Employer Application
- IWT Employment History Self-Attestation Form
- IWT Trainee Information Spreadsheet
- IWT Pre-Award Agreement
- IWT Employers Sub-Tier Agreement
- IWT Modification Form
- IWT Quarterly/Final Reporting Form

DEW may create additional forms/templates as deemed necessary. LWDAs are required to use the most current version of these forms. Additionally, instructions for managing IWT in SCWOS are available to LWDAs in SCWOS under Staff Online Resources.

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

Inquiries: Questions may be directed to PolnPro@dew.sc.gov.

A handwritten signature in blue ink that reads "Kevin Cummings". The signature is written in a cursive style and is positioned above a horizontal line.

Kevin Cummings, Director
Technical Services, Policies, and Reporting