

South Central Ohio Workforce Partnership

Area 20/21 Workforce Development Board

Customized Training Policy

Effective: October 21, 2020



I. Purpose

This policy provides guidance on the requirements for customized training.

II. Effective

Immediately

III. Background

Work-based training is employer-driven with the goal of unsubsidized employment after participation. Generally, work-based training involves a commitment by an employer or employers to fully employ successful participants after they have completed the program. It can be an effective training strategy that provides additional opportunities for participants and employers in both finding quality work and in developing a quality workforce. Work-based models can be effectively used to target specific job seekers and employer needs.

Customized training is one type of work-based training model and is designed to meet the specific requirements of an employer or group of employers. Section 3 (14) of Workforce Innovation and Opportunity Act (WIOA) and the accompanying regulations in 20 CFR 680.760 and 680.770 establish that local workforce development boards (WDB) and the state may offer customized training through an agreement with either a vendor or employer.

IV. Definitions

Customized training: training that is designed to meet the specific requirements of an employer (including a group of employers); is conducted with a commitment by the employer to employ an individual upon successful completion of the training; and for which the employer pays:

- 1) 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

- 2) In the case of customized training 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, taking into account the size of the employer and such other factors as the Governor of the State determines to be appropriate.

Planning region: two or more local workforce development areas assigned by the state to align workforce development activities and resources with larger regional economic development areas and available resources to provide coordinated and efficient services to both job seekers and employers.

V. Requirements

Customized training is one of several types of allowable training identified in Section 134 (c)(3)(D) of WIOA. This training may be offered to individuals under local area formula-funded programs or as a type of incumbent worker training. As a type of training offered in local formula-funded programs, participants must meet all adult, dislocated worker, or youth eligibility requirements prior to the start of customized training.

Overall, customized training is training designed to meet the needs of a specific employer or group of employers (employer consortiums). It may be provided for the introduction of new technologies, new production or service procedures, upgrading existing skills, or other appropriate purposes identified by the Area 20 WDB. The employer must commit to employ, or continue to employ, the worker(s) upon successful completion of any form of customized training. As with all training services, the customized training must enable individuals to obtain industry or employer-recognized skills.

Customized training may be provided through individual training accounts (ITAs) or through contracts for services. If the training is provided through an ITA, all requirements of such ITA must be followed, including the use of approved eligible training providers. If a contract is used to provide customized training, this contract must have been established through proper procurement procedures.

VI. Business Considerations

Area 20 WDB will not enter into a customized training agreement with an employer who has exhibited a pattern of failing to retain individuals after successful completion of the customized 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: www.sam.gov
 - Ohio Department of Taxation: www.tax.ohio.gov
 - Business Filing Search: www.sos.state.oh.us
- 2) Businesses must not have any outstanding tax liability for over six months to the state of Ohio. WDBs will require the businesses to disclose any known outstanding tax liabilities with other states prior to entering into contract. The local WDB may consider existing out-of-state violations when determining eligibility to receive customized training funds. The local WDB 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 of the approvals, licenses, or other qualifications needed to conduct business in the state and all must be current. Should this status change during the course of 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 Area 20 WDB. 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.

VII. Training Considerations for Customized Training

Area 20 WDB will use the following selection criteria for awarding customized training contracts:

- 1) Priority will be given to select industries: healthcare, information technology, logistics, manufacturing, and skilled trades.
- 2) Contracts must show that the individual will receive an increase in earnings, career advancement, or prolonged retention at the company following completion of training.

Training for customized training will address:

- 1) Occupations in industries that have documented skill shortages. Careers on the State's in-demand list, high wages, high costs for recruitment, and/or positions that remain unfilled for long periods of time may indicate a shortage of skills within the workforce; and
- 2) Developing the skills of the workforce so as to 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.

VIII. 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.

The private placement agency and the placement employer should be included in the contract when offering customized training to employers that want to include workers placed through private placement agencies. 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 Area 20 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).

Provisions to be included in the customized training agreement include all of the following:

- 1) Good and effective agreements should 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 (employer consortiums), the Area 20 WDB may decide with whom to contract and the details set forth therein. If the consortium is a legal entity and the participating employers are in agreement on their match requirements, the Area 20 WDB may contract with the consortium directly and accordingly, the match requirement would be paid by the consortium. It is also allowable to enter into individual contracts with each participating employer. Regardless of what entity the contract is with, all requirements, expected outcomes, and assurances described in this issuance must be met.

Prior to the execution of a training agreement, the local workforce development area must obtain a commitment from the participating employer(s) of the following, at a minimum:

- 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 in order 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 WDB and/or the employer.

IX. 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's / trainer's 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/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; and/or
- 5) Purchase of capital equipment.

X. Employer Match Requirements

Pursuant to 20 CFR 680.760, Area 20 WDB requires employers to pay a minimum of 50% of the cost of the customized training with the remainder of the cost being reimbursed using available WIOA funds. The employer match can be cash or in-kind contributions. In-kind matches must benefit the training and must be documented. Also, the employer match cannot include federal, state, or other grant funds.

Contracts must not exceed \$5,000 for reimbursement per individual and \$2,500 for supportive services per individual.

Area 20 WDB will use the following factors when establishing employer reimbursement (employer match):

- 1) The size of the employer;
- 2) Number of employees participating in training;
- 3) Wage and benefit levels of those employees (at present and anticipated upon completion of the training);
- 4) Relation of the training to the competitiveness of a participant;
- 5) Other employer-provided training and advancement opportunities; and
- 6) Other factors the local WDB and planning region determine to be appropriate.

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, but 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.

XI. Monitoring

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.

XII. References

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

NPRM § 680.760 found at 80 Fed. Reg. 20861 (April 16, 2015) (to be codified at 20 C.F.R. § 680.760).

NPRM § 680.770 found at 80 Fed. Reg. 20861 (April 16, 2015) (to be codified at 20 C.F.R. § 680.770).

2 CFR Part 200, Appendix II.

O.A.C. 4141-3-05, Definition of employment, January 1, 2001.

ODJFS WIOAPL 15-24 (Customized Training Guidelines). March 23, 2016.