



**Illinois
Department of Commerce
& Economic Opportunity**

Pat Quinn, Governor

WIA POLICY LETTER NO. 13-PL-01

TO: Chief Elected Officials
Local Workforce Investment Board Chairpersons
Local Workforce Investment Board Staff
WIA Fiscal Agents and Grant Recipients
WIA Program Services Administrators
Illinois workNet® Operators
WIA State Agency Partners
Other Interested Persons

SUBJECT: WIA Training Options

DATE: October 9, 2013

I. SUBJECT INDEX

Training

II. PURPOSE

This policy provides Local Workforce Investment Boards (LWIBs) with information and guidance on providing training programs that are supported by Workforce Investment Act (WIA) Funds.

These programs will assist Economic Development Regions (EDRs) and/or Local Workforce Investment Areas (LWIAs) in developing a full continuum of training services by training and retraining the unemployed and current employees with new and upgraded skills.

III. ISSUANCES AFFECTED

A. References:

Workforce Investment Act of 1998, 117 (e), 118 (c), and Section 134 (a)(3)(A)(iv)(I) and (d)(4)

Workforce Investment Act Final Rule; Section 661.345, 663.400, 663.430, 663.440, 665.210, 665.220, and 667.268

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29 CFR 97.24

WIA Policy Letter No. 10-PL-58, Reporting of Accrued Expenditures, Obligations, and Reallocation (July 1, 2010)

WIA Policy Letter No. 09-PL-57, Change 1, Training Provider Eligibility/Program Certification (October 28, 2010)

WIA Policy Letter No. 07-PL-41, Change 2, Local Plan Modifications (April 26, 2012)

WIA Policy Letter No. 07-PL-40, Change 1, Training Expenditure Requirement (July 26, 2011)

WIA Policy Letter No. 07-PL-33, Change 4, Incumbent Worker Training (December 19, 2011)

WIA Notice No. 12-NOT-02, WIA Provider Summary Reporting (November 19, 2012)

B. Rescissions:

WIA Policy Letter No. 07-PL-33, Change 1, Incumbent Worker Training Waiver (May 13, 2009)

WIA Policy Letter No. 04-PL-02, Training Through Contracts for Service (January 14, 2005)

IV. IMPORTANT TERMS

None.

V. BACKGROUND

LWIAs must respond quickly to the employer's need for a skilled workforce through public-private partnerships that emphasize customized employment and training solutions. To do this, it is essential that LWIAs have at their disposal a variety of training tools that can be customized to benefit both the customer and the employer. Illinois has made a strong investment in identifying strategies that closely link workforce development and economic development. Establishing this link is a goal of WIA. Through this connection, Illinois has launched projects designed to address acute regional skill shortages that may be more appropriately underwritten through a contract for service that allows for several mechanisms of training rather than just the purchase of individualized training via an individual training account (ITA).

Section 134(d)(4) of the Workforce Investment Act (WIA) describes requirements for the use of WIA adult and dislocated worker formula funds for training services that not only support individual training options but also solutions for achieving the skilled workforce for the employer. These training services include the full

range of occupational skills training, adult education and literacy services, and customized training. In addition, Section 134(d)(4) goes on to define certain situations when training may be paid through alternative contractual arrangements. This letter provides State policy governing the local use and payment of the various mechanisms for training used in WIA adult and dislocated worker formula funded projects, including projects to address critical skill shortages.

VI. POLICY

A. General Training Program Requirements

The requirements of this section relate to general eligibility of training providers of training programs.

1. All training programs must be provided by an eligible training provider, unless otherwise allowed in accordance with WIA Policy Letter 09-PL-57, Change 1.
 - a. The case manager must work with the individual seeking training services to select a training provider program that will lead to an employment related placement.
2. All training programs, unless otherwise noted within this policy letter or WIA Policy Letter 09-PL-57, Change 1, must be certified and include a target occupation(s) from the current Demand Occupation List for the local area.
3. Training Contract Requirements
 - a. All training contracts or written agreements must include, at a minimum, the following information:
 - 1) Who is providing the training;
 - 2) Who is to receive the training;
 - 3) What training will be provided;
 - 4) Where the training will be provided;
 - 5) The length of the training to be provided (to include the start and end date, number of days per week, and number of hours per day);
 - 6) The cost of the training program (to include only reasonable and acceptable costs); and
 - 7) If applicable, the amount of employer matching or leveraged support and how it will be provided.
 - b. Assess current training offerings to ensure that the contracts are not duplicating existing training courses and curricula. These training

contracts can be performance-based to ensure that they result in real outcomes for the student.

- c. For training that will be held away from a traditional classroom setting, assurances that reasonable working conditions are being provided (including health and safety standards established under State and Federal laws) must be included in the contract or written agreement.
4. Regardless of the type of training to be provided to a customer, an Individual Employment Plan (IEP) shall be developed that includes, at a minimum:
 - a. Employment goal and wage expectation;
 - b. Employment assistance determination;
 - c. Training goal(s), including any industry recognized credentials expected to be obtained;
 - d. Training plan, including the need for remedial, pre-requisite, vocational or occupational training;
 - e. Length of training program, including expected training breaks;
 - f. All necessary training components, especially when multiple types of training are to be provided (i.e., remedial training leading to OJT or customized training); and
 - g. Supportive services necessary for the customer to complete the training.
 5. All training programs must be in accordance with local workforce investment area (LWIA) training limits and other requirements.
 - a. Local areas may consider waivers or exceptions to these limits for certain training programs such as OJTs, Class Size Training, or Customized Training, to meet the needs of area employers.

B. Training Options

Grantees shall consider the following training options that must be customized to the specific training needs of the customer. Training must lead to placement in a demand occupation.

1. Individual Training Accounts (ITAs)

The Individual Training Account (ITA) is established for eligible individuals to finance training services. The ITA is established on behalf of a participant. WIA Title I adult and dislocated workers purchase training services from eligible providers they select in consultation with the case manager.

- a. The law provides several exceptions when contracts may be used instead of ITAs, as outlined below. It is possible that more than one exception might be pursued at the same time by an LWIB. If more than one exception to the use of ITAs is made by an LWIB during the same program year, the LWIA may spend a significant portion of adult and dislocated worker formula training funds using contracts for service rather than ITAs.
 - 1) When the services provided are on-the-job training (OJT) or customized training;
 - 2) When the Local Board determines that there are an insufficient number of eligible providers in the local area to accomplish the purpose of a system of ITA's; or
 - 3) When the Local Board determines that there is a training services program of demonstrated effectiveness offered in the area by a community-based organization (CBO) or another private organization to serve special participant populations that face multiple barriers to employment.
- b. During a program year, an LWIA will be considered to be in compliance with the statutory requirement to utilize ITAs to the extent practical, if the LWIA, at a minimum:
 - 1) Expends the majority (i.e., at least 51 percent (51%)) of combined costs incurred through ITAs and training contracts under the adult and dislocated worker programs through individual training accounts; or
 - 2) Serves the majority (i.e., at least 51 percent (51%)) of adult and dislocated worker customers receiving training services through ITAs.
 - 3) The 51 percent (51%) minimum criterion is set as low as possible to allow LWIBs flexibility, while still meeting the statutory requirement.
 - a) This policy is intended to allow LWIBs to pursue alternative training opportunities to expand training choices and better link workforce and economic development.

- c. An LWIB that has determined that there are insufficient eligible providers in the local area to accomplish the purposes of the Act and complies with the requirements of 20 CFR 663.430, may be in a position of not using ITAs at all or minimally. Such an LWIA will also be considered to be in compliance, regardless of the percent of combined adult and dislocated worker training funds expended through ITAs (see Section VI.D).

2. On-the-Job Training (OJT)

On-the-Job Training (OJT) is training by an employer that is provided to a paid participant while engaged in productive work in a job that will provide the knowledge or skills essential to adequately perform the job.

- a. OJT may be provided under a contract with an employer in the private non-profit, or private sector (WIA Section 101(31) and 20 CFR 663.700).
- b. OJT may be provided to eligible unemployed individuals with WIA Adult or Dislocated Worker funds and to eligible employed individuals with WIA Adult funds.
 - 1) OJT provided through WIA Adult funds must provide priority to low-income individuals when funds are limited.
- c. An individual who participates in On-the-Job Training (OJT) must be hired as a regular full-time employee by the OJT employer prior to the start of the training program.
- d. Full-time employment would continue upon successful completion of training.
 - 1) Successful completion includes:
 - a) Met all goals of the training program; and
 - b) Complied with all company and employment obligations throughout the training.
 - 2) The intent of an OJT is NOT subsidized employment. Employers should not enter into an OJT contract unless willing to retain successful completers.
- e. Training does not have to occur at the employer's location.
- f. There is no prohibition in combining OJT with other forms of training.

- 1) When combining OJT training with other types of training, only the OJT hours are eligible for wage reimbursement. (i.e., a customer who may participate in remedial training prior to or concurrently with an OJT would not be eligible to have the remedial training portion of their program reimbursed.)
 - 2) If an OJT and another form of training are to occur concurrently, consideration must be given to the ability of the customer to successfully complete the training programs keeping in mind that the OJT is a full-time commitment.
 - 3) Other types of training combined with OJT may take place during scheduled work shifts, but must not interfere with the full-time commitment of the OJT.
- g. On-the-Job Training is provided for a WIA customer in exchange for a negotiated reimbursement of up to ninety percent (90%) of the wage rate to compensate for the employer's extraordinary costs of training and additional supervision related to the training (WIA Section. 101(31)(B) & 20 CFR 663.700(a)).

Note: Illinois received a waiver approval from USDOL-ETA, effective July 1, 2012 to allow OJT contracts to have a reimbursement rate up to ninety percent (90%) based on a sliding scale. Prior to this waiver, reimbursement was on a negotiated basis up to fifty percent (50%).

- 1) The reimbursement rate shall be on a sliding scale based on the size of the business entering into the OJT contract. Under the current waiver, the following reimbursement amounts will be permitted:
 - a) Up to ninety percent (90%) for employers with 50 or fewer employees,
 - b) Up to seventy-five percent (75%) for employers with 51-250 employees, and
 - c) Up to fifty percent (50%) for employers with more than 250 employees.
- 2) During negotiation of an OJT contract, the training costs of the employer should be estimated by the LWIA and used as a basis for negotiating the percentage of the wage to be reimbursed during the training period.
 - a) However, employers are not required to document the extraordinary costs of training as OJT is implemented (20 CFR 663.710(c)).
- 3) The size of the business is determined by the location where the training will take place, or (in instances where training may occur offsite) the location to which the trainee reports.

- 4) When determining the negotiated reimbursement, the LWIA should consider the overall size of the company and its ability to pay for training without WIA support, total available funds for OJT programs, the number of employers interested in OJT programs, and other factors in order to maximize the impact of OJT funds.
- h. An OJT contract must be limited to the period required for a participant to become proficient in the occupation for which the training is being provided.
 - 1) The appropriate duration and intensity of training is based on a skills gap assessment that considers the following:
 - a) The skill requirements of the occupation;
 - b) The academic and occupational skill level of the participant;
 - c) Prior work experience; and
 - d) The participant's individual employment plan (WIA Section 101(31)(C) & 20 CFR 663.700(c)), and
 - 2) The training program should generally not exceed a total of 1,040 full-time hours of actual training (the equivalent of full-time training for 6 months).
 - a) Training programs should not be more than six (6) months in length as that indicates there may be too large a gap in the customer's skill(s) level and employer needs;
 - b) Training may exceed six (6) months if there are extenuating circumstances such as lengthy illness, plant shutdown, holidays, etc.; and
 - c) An employee in OJT may work overtime hours, but overtime hours are not eligible for wage reimbursement.
 - i. WIA customers in On-the-Job Training or individuals employed in programs and activities under Title I of WIA must be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work (20 CFR 667.272(b)).
 - j. The local program must not contract with an employer who has previously exhibited a pattern of failing to provide OJT customers with continued long-term employment with wages, benefits, and working conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work (WIA Section 195(4) & 20 CFR 663.700(b)).
 - k. The training program cannot be utilized to train new workers with the goal of laying off other employees.

- i. An OJT contract may be used to train a WIA customer who, prior to the start of OJT, is already working for the OJT employer (i.e., an “employed worker” who is earning less than a self-sufficient wage) and must elevate the employee to reach at least a self-sufficient wage through skill upgrade training that relates to either:
 - 1) The introduction by the employer of new technologies;
 - 2) The introduction to new production or service procedures;
 - 3) Upgrading to new jobs that require additional skills/workplace literacy; or
 - 4) Other appropriate purposes identified by the Local Board (20 CFR 663.705).
- m. In most cases, OJT is not an appropriate work experience activity for youth customers under 18 years of age.
 - 1) Local program operators may choose, however, to use this service strategy for eligible youth when it is appropriate, based on the needs identified by the objective assessment of the individual youth participant (WIA Section 129(c)(2)(D) & 20 CFR 664.460).

3. Customized Training

Customized training is designed to meet the special requirements of an employer or group of employers.

- a. The employer(s) must pay not less than 50 percent of the cost of the training (WIA Section 101(8) & 20 CFR 663.715).
 - 1) Employer matching costs must be in cash, or in-kind, must be documented, and are subject to audit.
 - 2) Customized training may be provided to eligible unemployed persons and, in some cases (as described below), to eligible employed workers.
- b. The employer (or group of employers) must commit to hire WIA customers who successfully complete the customized training program and trainees must agree to accept employment offers from the employer.
 - 1) Local areas shall include language for this requirement into a signed agreement between WIA provider, the employer and customer prior to the start of the training program.
- c. A customized training contract may also be written to train a WIA customer who is already working for the employer (or group of

employers) for which the customized training is being provided, when the employee is not earning a self-sufficient wage. In this situation, customized training provided to a previously employed worker must elevate the employee to reach at least a self-sufficient wage through skill upgrade training that relates to either:

- 1) The introduction by the employer of new technologies;
- 2) The introduction to new production or service procedures;
- 3) Upgrading to new jobs that require additional skills/workplace literacy; or
- 4) Other appropriate purposes identified by the Local Board (20 CFR 663.720(c)).

4. Incumbent Worker Training (IWT)

Incumbent Worker Training is defined in WIA Policy Letter 07-PL-33, Change 4 (or subsequent guidance). This type of training is to be provided when current employees need to improve their skills in order to avoid being laid off from a company that is at risk of downsizing or closing.

- a. Incumbent worker training programs are for non-WIA eligible employees.
- b. Incumbent worker training activities must comply with all of the requirements of WIA Policy Letter 07-PL-33, Change 4 (or subsequent guidance).

5. Bridge Programs

Bridge Programs prepare adults with limited academic or limited English skills to enter and succeed in postsecondary education and training leading to career-path employment in demand occupations as identified by the local labor market information. The goal of bridge programs is to sequentially bridge the gap between the initial skills of individuals and what they need to enter and succeed in postsecondary education and career-path employment.

- a. Bridge Programs must be provided as a training service as outlined in the customer's IEP.
- b. The delivery of Bridge Programs does NOT have to be through an eligible training provider with a certified training program; they may be provided by:
 - 1) An approved and funded Illinois Community College Board (ICCB) Adult Education program;

- 2) The credit or non-credit department(s) of a community college; or
 - 3) Community-based organization (CBO) or other type of provider that offers non-credit workforce training.
- c. Training programs may be offered by a single entity (e.g., a community college or a CBO) or by a partnership (e.g., a CBO and a community college).
- d. Regardless of the provider, they:
- 1) May provide opportunities to earn college credit (such as through escrow credit accounts);
 - 2) May offer dual enrollment in credit and non-credit programs; or
 - 3) May offer a multi-level program that moves people from an adult education course offered by one provider to a non-credit occupational course offered by the same or another provider.
- e. All bridge program providers must use pre-skill assessments consistent with program requirements to place students into the appropriate courses as well as post-skill assessments to measure progress. All providers will use data tracking systems to collect and analyze key information about bridge program participants and graduates.

6. Class Size Training Programs

Training services include the full range of occupational skills training, adult education and literacy services, and customized training as described in WIA Section 134 (d)(4)(D). Class size training programs should be viewed as a group of ITAs combined into all or a portion of a training program utilizing approved training programs provided by eligible training providers.

- a. Prior to entering into a class size training contract, an assessment is encouraged to ensure that the proposed training courses and curricula are not duplicating existing programs in place.
- b. Development of curriculum is allowable for only emerging sectors or when there is a need to enhance the capacity of the training institution and development time is limited to six (6) months.
- c. Only class size training contracts tied to demand occupations are allowed.
 - 1) The training contracts must be with a certified training program on the state's approved training program list.

- 2) Participants receiving the training must meet individual WIA eligibility requirements for adults or dislocated workers. Additionally, LWIBs must be aware of, and continue to comply with the following requirements:
 - a) The current ten percent (10%) limit on local administrative costs applies.
 - b) No additional amount shall be set aside for administrative costs associated with class size training contracts.
- 3) LWIBs are still subject to the reallocation of funds requirements as described in WIA Policy Letter 07-PL-41, Change 1 (or subsequent guidance). These requirements include funds diverted for class size training contracts.

d. Contract Provisions

- 1) All contracts for class size training contracts must be competitively procured in accordance with grantee procurement policies.
- 2) Contracts must ensure that all WIA eligible populations have access to the training offerings.
- 3) Contracts must take into consideration the customer's skill gap for occupations under consideration for training.
- 4) Contracts must contain, at a minimum, the following:
 - a) All requirements of Section VI.A.3. above;
 - b) List of the demand occupation(s) that this training program is intended to address;
 - c) Description of the methods of delivery or presentation of the training program;
 - d) Identification of the number of individuals who will be provided with the training program;
 - e) Description of any tutoring to be provided including who will provide the tutoring, and how many participants will receive the tutoring;
 - f) Description of what constitutes successful completion of the training program and should be performance-based to ensure completion results in real outcomes;
 - g) Description of the training schedule;
 - h) Description of the payment terms;
 - i) Description of the methods for recapture of overpayments; and
 - j) Description of the provisions for termination (such as for lack of participant attendance).

- e. Programmatic reporting requirements of Class Size Training Contracts include entry of information on participants into the Illinois Workforce Development System (IWDS) including:

- 1) All participants of a class size training contract must be enrolled into IWDS as either an adult (1A) or dislocated worker (1D) participant. Enrollment in IWDS would include selection of the following:
 - a) "Vocational training" that is identified as class size training as their activity code; and
 - b) All other related training enrollment data (such as start date, training provider, training program, etc.).

C. Programs of Demonstrated Effectiveness

1. This is an exception to the ITA requirements if the local board determines that there is a training services program of demonstrated effectiveness offered in the local area by a community-based organization or another private organization to serve special participant populations that face multiple barriers to employment.
 - a. The following criteria must exist to utilize the exception:
 - 1) The training must be for a special low income population with multiple barriers to employment, including substantial language or cultural barriers, offenders, homeless, and disabled individuals.
 - 2) The training must be provided by a Community-Based Organization (CBO) or other private organization.
 - 3) The training provider must be an eligible WIA Training provider.
 - b. Other requirements

The LWIB must develop criteria to determine "effectiveness" in the context of this exception. These criteria may include:

- 1) Financial stability;
- 2) Low income targeted group needing training in a class size setting;
or
- 3) A situation where it makes sense to use this exception versus an ITA.

D. Limited Training Service Providers

WIA Section 134(d)(4)(G)(ii)(II), and the federal rule at 20 CFR 663.430(a)(2), provide that contracts for training rather than ITAs may be used when there is an insufficient number of eligible providers in a local area. This exception applies primarily to rural areas.

1. When the LWIB determines that there are an insufficient number of eligible providers in the local area to accomplish the purpose of a system of ITAs, the Local Plan must describe the process to be used in selecting the providers under a contract for services.
2. This process must include a public comment period for interested providers of at least 30 days.
3. An LWIA that has determined that there are insufficient eligible providers in the local area to accomplish the purposes of the Act and complies with the requirements of 20 CFR 663.430 may use ITAs to a limited degree or not at all.
 - a. This provision may be interpreted as a “blanket” waiver regarding the requirement to use ITAs.
 - b. However, given the current widespread use of ITAs in all areas of Illinois (including rural areas), it is not expected that this provision could be justified on a blanket basis.
 - c. However, there may be instances when one or more programs are either unavailable altogether or are available from one or a very few eligible providers - resulting in limited choice for training consumers.
 - d. In such cases it is more justifiable to apply this provision on an exception basis rather than as a blanket.
 - e. Applying this exception on a program-by-program basis is more consistent with the direction provided in federal rule that exceptions to the use of ITAs be infrequent.
 - f. Therefore, an LWIB may invoke this provision on a program-by-program basis.
 - g. The LWIB must document the formal action determining that there are an insufficient number of eligible providers and make appropriate modifications to the Local Plan to support the exception(s).
 - h. To the extent exceptions are made, such an LWIA will be considered to be in compliance, regardless of the percent of combined adult and dislocated worker training funds expended through these contracts or the proportion of customers served through ITAs.

- i. However, it is expected that the LWIB will continue to make efforts to maximize customer choices of training options under the contract for services procurement approach.
- j. As required by 20 CFR 663.505(b)(1)(ii), contracts for training entered into under this exception may only be to eligible training providers as determined under WIA Section 122 (i.e., these programs must be on the State list of certified training programs).

E. Work Experience

Not all educational experiences available to WIA participants are classified as training services or occur under conditions similar to those outlined in the Training Options (Section VI.B.). Work Experience can be used by the customer to successfully complete their training goals.

1. Work experience is a planned, structured learning experience that takes place in a workplace for a limited period and may be paid or unpaid. Work experience differs from OJT and IWT training in that there is no hiring occurring prior to or agreement to hire following the learning experience. Work experience is considered an intensive service under WIA.
 - a. Participants in a paid work experience must be provided a reasonable wage to the extent that it is consistent with that paid for similar work according to OMB Circular A-87 or A-122, whichever applies.
 - b. The employment of participants must not occur at a workplace where:
 - 1) A participant's employment would unfavorably impact current employees (a youth participant would displace all or a portion of a current employee's hours including overtime, wages, employment benefits, or promotional opportunities);
 - 2) A participant's employment would impair existing contracts for services or collective bargaining agreements;
 - 3) A participant's employment would replace the work of employees who have experienced layoffs; or
 - 4) An employer has terminated a regular employee or otherwise reduced its workforce with the intention of replacing them with participants subsidized with these funds.
 - c. The work experience has meaningful and adequate supervision (with provisions made for supervision when the regular supervisor may not be available).
 - d. The work experience is achieving the goals for which it was designed (possibly with documented learning experiences).

F. Reporting Requirements of Training Contracts

The programmatic reporting requirements include entry of information on participants into the Illinois Workforce Development System (IWDS) including:

1. All services and activities **must** be documented in IWDS **within ten (10) calendar days of the occurrence of the start and end dates of the services and activities in which the participant is enrolled as well as the participant's exit date** to ensure current information is available for Federal reporting purposes.

G. Financial Reporting

1. Obligations and expenditure reporting for local level contracts will be completed in the DCEO Grantee Reporting System (GRS) using the guidelines and instruction found in WIA Policy Letter 10-PL-58 (or subsequent guidance)
2. Grantees must report their accrued expenditures by the 20th day of the following month.

H. Performance

1. Customers that are formally registered in WIA will be included in the local area's federal performance standards.

VII. ACTION REQUIRED

LWIBs must ensure that appropriate staff are apprised of and comply with the requirements in this policy letter for training programs supported with WIA funds.

VIII. INQUIRIES

Inquiries should be directed to DCEO, Mark Burgess, (217) 785-6387 or mark.a.burgess@illinois.gov.

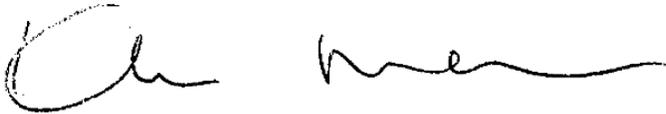
IX. EFFECTIVE DATE

This policy is effective upon release.

X. EXPIRATION DATE

This policy will remain in effect until amended or rescinded by DCEO, Office of Employment and Training.

Sincerely,

A handwritten signature in black ink, appearing to read 'Therese McMahon', written in a cursive style.

Therese McMahon, Deputy Director
Office of Employment & Training

TM:mb