



LOCAL INSTRUCTION NUMBER 21-04

To: Local Workforce Development Area

Subject: Rapid Response Incumbent Worker Training Policy

Issuance Date: February 22, 2022

Effective Date: July 1, 2022

Purpose: To provide guidance on the operation of Rapid Response Incumbent Worker Training (IWT) programs. This guidance updates the Waiver of Payment Terms section to allow for broader payment flexibility.

References:

- Workforce Innovation and Opportunity Act, Public Law 113-128 § 134(d)(4)
- 20 CFR §§ 680.780 – 680.840, 682.210(b), 682.320(b)(4)
- Training and Employment Guidance Letters (TEGLs) 30-09, 19-16
- Training and Employment Notices (TENs) 3-10, 9-12
- State Instruction (SI) 20-08

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.

The US Department of Labor (DOL) encourages state and local Rapid Response operators to design innovative solutions for both businesses and workers in transition, including developing, funding, and managing IWT programs or other worker upskilling approaches as part of a layoff aversion strategy or activity.

Policy: Rapid Response IWT provides funding for training to assist a business or group of businesses in averting a layoff or closure. 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 a minimal period of unemployment.

Rapid Response IWT can only be used when IWT is part of a broader layoff aversion strategy or activity, and is restricted to skill attainment.

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 to determine eligibility 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 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.

Business Review

A third-party review of the business is required before submission of an application for Rapid Response IWT. The review must do the following:

- 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.

Third parties may include:

- SC Manufacturing Extension Partnership (SCMEP)
- Economic development agencies or organizations
- Chambers of Commerce
- Industry-relevant trade associations
- Other entities or organizations with industry expertise and experience reviewing business systems and processes and recommending process improvement to include employee training

Performance of a competitiveness review is an allowable WIOA Rapid Response activity. The cost of performing a competitiveness review will be included in the \$50,000 maximum funding that an employer may receive, which will potentially reduce the scope of the employer's training program. If a fee for the review will be charged, prior written approval is required before a competitiveness review is performed.

NOTE: SCMEP conducts a competitiveness review at no-cost to the business or WIOA.

Training Services

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

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

Waiver of Payment Terms

The requirement that employers pay the full cost of training can present a hardship, especially in the case of Rapid Response IWT when the employer is facing financial risks. Additionally, there may be training providers or courses that require payment at the time of registration or at some point before training completion. Pending agreement of all parties, the area/service provider, employer, and training provider, LWDA's have the flexibility to establish a payment strategy that aligns with the area's policies, the provider's payment terms, and the company's needs. Such flexibility expands access to IWT, especially for smaller companies. LWDA's should consider the following criteria when assessing the need for payment flexibility:

- Nature, extent, and anticipated duration of the company's hardship, as documented by the company or through the Competitiveness Review
- LWDA policies and procedures
- Training provider payment/reimbursement policies
- Completion rate for RRIWT participants
- Regularity of employees not completing training
- Other factors deemed appropriate by the LWDA

Please note: Local areas are not required to offer these flexibilities. LWDA's have the option depending on the circumstances but can also decline to offer any flexibilities and follow the normal reimbursement process.

Application Submission, Review, and Evaluation Process

Businesses should submit a completed application to the appropriate LWDA. Local staff must conduct and complete the Local Area Assessment before submitting the application to the SC Department of Employment and Workforce (DEW) for final review.

DEW will review and evaluate the application based on the totality of the circumstances surrounding the business's current position, as described in the third-party competitiveness review. Consideration will 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. DEW will assess the following:

- Whether business circumstances point to the likelihood of layoffs or closure if not addressed;
- Whether the requested training will address the current negative business circumstances;
- Which employees will receive training;
- The cost per participant receiving training; and
- Any other indicators that IWT is an appropriate response to current business circumstances.

Questions or requests for additional information will be submitted to the LWDA with the expectation that the LWDA consult with the business and training provider to resolve and respond to requests for additional information. **Note:** when necessary and appropriate, DEW will directly contact the entity that conducted the competitiveness review and/or the training provider(s).

Maximum Award

A business match is not required for Rapid Response IWT. As a general rule, eligible businesses may receive up to \$50,000 for Rapid Response IWT. As stated above, performance of a competitiveness review is an allowable WIOA Rapid Response activity. The cost of performing a competitiveness review will be included in the \$50,000 maximum funding that an employer may receive if the employer does not select a no-cost option.

Please note that DEW is not obligated to award the full amount requested by a business. A business's application may be partially funded, at a level less than \$50,000, or denied altogether based on a review of the application, including the competitiveness review and training requested. In limited situations, business circumstances may result in a grant award that exceeds \$50,000.

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 measures as required for reporting on Effectiveness in Serving Employers. Employer service code E20, RR-Funded IWT Agreement for Layoff Aversion, must be entered in SCWOS on an enabled employer account within 15 days of executing the IWT agreement.
- Activity code 355, Rapid Response-Funded IWT, is used on a participant's account when the employer is participating in Rapid Response IWT. Trainee/participant activity codes must be entered on a WIOA-participant account within 15 days of the activity start date and closed within 15 days of the last date of activity.

Individuals receiving IWT only are not considered participants for the purpose of inclusion in WIOA performance indicator calculations. However, 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 social security numbers (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. See SI 20-11, Follow-Up Services for WIOA Title I Program Participants, for more information on supplemental wage information.

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. Employees may contact their local SC Works center in order to register without a SSN.

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 monthly or quarterly Trainee Progress Reports 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 State Workforce Development Board (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 should result in the following outcomes:

- Layoff and Business Closure Aversion

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

Timeframe for Implementation and Completion of Training Program

Because Rapid Response IWT is for the purpose of averting layoffs that are imminent, training should begin within 30 days of the local area executing the Rapid Response IWT grant award. If training does not begin within 90 days of the signed grant award, the grant may be rescinded. Training must be completed within 12 months.

IWT Forms, Template, and Instructions

DEW will provide standardized forms and templates for use by LWDA's in the administration of Rapid Response 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 Local Assessment
- 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. LWDA's are required to use the most current version of these forms. Additionally, instructions for managing IWT in SCWOS are available to LWDA's in SCWOS under Staff Online Resources.

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

Inquiries: Questions may be directed to nlawing@catawbacog.org



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