

COMMONWEALTH OF PUERTO RICO
SOUTHWEST LOCAL WORKFORCE DEVELOPMENT BOARD, INC.

**PUBLIC POLICY FOR CUSTOMIZED TRAINING ACTIVITY,
INCLUDING COSTS BORNE BY EMPLOYERS**

Section 1. The Local Workforce Investment Board of the Southwest Consortium, Inc. based on Public Law 113-128, Workforce Innovation and Opportunity Act (WIOA), to create Public Policy for the Customized Training Activity, including costs borne by Employers.

Section 2. Customized training is designed to meet specific requirements of an employer or group of employers with a commitment to employ or in the case of incumbent employees/workers to retain in employment those individuals who satisfactorily complete the training for which the employer pays not less than 50% of the cost of the training (Section 3(14) of WIOA).

Section 3. Requirements for the Customized Training Activity

- Customized Training (like OJT) is an exception to the requirement for Individual Training Accounts (ITAs) to finance training services to participants.
- The participant must meet the eligibility requirements set forth in Section 180.210 of the Federal Register and Section 134(c)(3)(A) of WIOA.
- The employer is required to commit to employ the participant or retain the participant in employment upon successful completion of the training.
- The Local Board authorizes the disbursement of up to \$5,000 per participant for the Customized Training Activity.
- Training costs that may be reimbursed up to 50% under the Customized Training Activity are as follows:
 - Costs related to training tuition.
 - Instructor and/or trainer salaries and costs related to curriculum development.
 - Costs related to training materials, certifications, licenses and credentials.
- On the other hand, the use of funds to subsidize the following items, but not limited to, is not permitted:
 - Wages and fringe benefits of participants while they are in training;
 - Costs that are not directly related to the Customized Training Activity, for Title I eligible individuals;
 - Purchase of capital equipment
- As with the On-the-Job Training Activity (OJT), the duration of the Customized Training will depend on the assessment of the skills required for the occupation, the participant's skills and education, and prior experience.

- In the event that the Customized Training Activity is conducted with eligible existing employees, it is permissible as long as the employee is not earning a wage that allows him/her to be self-supporting, as determined by Local Board Public Policy; and the training is related to the introduction of new technology, new products or procedures that require retraining for the acquisition of new skills, promotions to new jobs that require additional skills, workplace literacy or for other purposes identified by the Local Board (Local Board Section 680. 770 of the Federal Register).

Section 4. Contributions from the Employers

Employers shall make significant contributions to the training of employees. In the case of micro enterprises, as defined by Act No. 62 of June 11, 2014, they shall contribute fifteen percent (15%) of the cost of training. In the case of small businesses, they shall contribute twenty-five percent (25%) of the training.

Act No. 62 of June 11, 2014 known as the Micro, Small and Medium-Sized Businesses and Small and Medium-Sized Merchants Support Act, companies and businesses are defined as follows:

- Microenterprise: Business or enterprise that generates a gross income of less than \$500,000.00 each year, and has 7 or fewer employees;
- Small Business: Business or enterprise that generates a gross income of less than \$3,000,000.00 each year, and has 25 or fewer employees;
- Medium Merchants: Business or enterprise that generates a gross income of less than \$10,000,000.00 each year, and has 50 or fewer employees.

In all other cases, the contributions of the employers shall not be less than fifty percent (50%). The specific percentage of each employer's contribution shall be determined taking into consideration: the number of employees participating in the training, salaries and benefits of those employees (at the beginning of the training and those to be received at the end of the training), relationship of the training with the participant's competitiveness, and other training and professional growth opportunities provided by the employer. The Local Board will determine on a case-by-case basis the percent to be reimbursed.

Section 5. Minimum Clauses to be included in a Customized Training Contract

Contracts entered into with employers for the development of Customized Training must specify the following:

1. the occupation for which the participant will be training and a description of the occupation;
2. training outline; the description of the occupation and the training outline must be specific enough to allow verification that the training is being provided as agreed upon;
3. number of participants to be trained;
4. cost of training per participant; and
5. method of payment and maximum amount to be reimbursed;

6. At a minimum, they shall contain clauses related to the following:

- The corresponding guarantees and certifications that include the compensation of the participant at the same salary of the company's employees occupying the same position;
- The employer's commitment to employ or retain in employment those individuals who have successfully completed the training.
- The employer's duty to maintain, retain and provide access to records to the Local Area, the Labor Development Program (PDL), the Comptroller's Office and the State and Federal Department of Labor and Human Resources, where there is evidence of the costs associated with the training activity and the corresponding reimbursements, such as: attendance records, payroll, invoices and other information necessary to respond during monitoring or auditing processes;
- Prohibition on the use or proposed use of WIOA funds to induce a business or part of a business to relocate and that the results of such relocation will result in any employee losing employment at the original location;
- Prohibition on the use or proposed use of WIOA training funds in any business or part of a business that has relocated to the United States, until the company has operated in the new location for 120 days, if the relocation results in any employee losing his or her employment at the former location;
- Prohibition of total or partial displacement of the employer's employees by WIOA participants;
- Provision of benefits and working conditions at the same level and extent to other employees working for a similar period of time and performing the same type of work;
- Non-discrimination provision and prohibition of sectarian activities;
- Prohibition on the use of funds to assist, promote or stop the organization of unions;
- Prohibition on the use of WIOA funds for foreign travel;
- Prohibition of political and lobbying activities;
- Provision on the application of the same benefits and working conditions to all participants;
- Compliance with the requirements and restrictions set forth in Section 181(a)(b) and (d) relating to benefits and work standards that apply to participants under WIOA Title I activities and prohibitions on the use of funds to encourage relocation of companies or businesses;
- Clause relating to the availability or existence of a Grievance Procedure in accordance with section 181(c).

Section 6. General Provisions

1. On-the-Job Training and Customized Training will only be provided to participants who have lesser skills than the entry level skills required for the occupation for which they are being recruited.
2. The O'Net occupational information network (system) and the Standard Vocational Profile (SVP) will be used as reference guides to determine the duration of On-the-Job Training. In addition, the skills required for the occupation, the participant's academic and occupational skill level, previous work experience, and the participant's individual employment plan will be considered.
3. The minimum weekly hours for OJT is 25 hours. Overtime is not permitted; therefore, a trainee may not work more than 8 hours per day or exceed 40 hours per week.
4. Reimbursement will be made only for those hours used while training the participant on the job. Reimbursement will not be made for pay for work performed outside the terms of the contract, or during breaks or periods not worked (e.g., strikes, holidays, vacations, sick leave, emergency shutdowns).
5. Upon completion of On-the-Job Training such as Customized Training, the employer shall issue a Performance Report and Certification of Completion to WIOA participants, formally stating that the participant is competent in the occupational skills acquired.
6. Section 683.275(a)(c)(d) and (e) of the Federal Register sets forth the wage standards that apply to participants under Title I activities. According to this section, the applicable standards are:
 - a. Individuals participating in OJT or employed under WIOA activities shall be compensated at the same rate, including periodic increases, as those in training or employees in similar situations and conditions. Wage compensation shall never be less than that established by the Fair Labor Standards Act or the federal state or local minimum wage.
 - b. OJT participants or employees under WIOA Title I activities shall receive fringe benefits and working conditions at the same level and to the same extent as those trainees or regular employees who are performing similar duties and who have been performing the duties for the same period.
 - c. Wages, earnings and payments to participants in WIOA Title I activities will not be considered as income for purposes of eligibility under other Federal programs for and the amount of income to be transferred and "in-kind" assistance provided by other Federal need-based programs except for purposes of the Social Security Act (42 USC 301 et Seq.), (WIOA Section 181(b)(1)).

Section 7. This public policy will become effective immediately upon approval by this Local Board.

In San Germán, Puerto Rico, today, July 11, 2017.



Roque Abad Ramírez Palermo, WDB Local Board Chairman