



**BUFFALO AND ERIE COUNTY  
WORKFORCE INVESTMENT BOARD, INC.**

**LOCAL POLICY BULLETIN**

**BECWIB BULLETIN # 7-22 DATE: 06/27/2023**

**TO:** Lavon Stephens, Administrative Director, WDC, Inc.

**FROM:** Jacqueline N. Hall, Executive Director, WIB, Inc.

**SUBJECT:** Customized Training

**REFERENCES:** Section 3(14) of the Workforce Innovation and Opportunity Act (WIOA); USDOL ETA Training and Employment Guidance Letter (TEGL) No. 19-16; and 20 CFR Sections 680.760, 680.770 and 680.710 (c).

**EFFECTIVE DATE: July 1, 2023**

Effective immediately, and in accordance with the Workforce Innovation and Opportunity Act (WIOA), our Local Workforce Development Area (LWDA) adopts the following policy concerning Customized Training.

**Purpose**

The purpose of this Local Policy Bulletin is to articulate the funding and eligibility requirements for Customized Training in accordance with Section 3(14) of WIOA, USDOL ETA TEGL No.19-16, and 20 CFR Sections 680.760, 680.770 and 680.710 (c).

Please share this information with appropriate staff.

c: Bukola Mallia, Demone Smith, Denise Raymond, Dixie Farr, Kenneth Newsom, Leslie Ayer, Francine Nicholas, Elizabeth Rivera, and Anthony Scello.

## **Customized Training**

### **Policy Statement**

Customized Training is group training that is designed to meet the specific needs of an employer. Its goal is to provide eligible workers and the employer with the opportunity to build and maintain a quality workforce. It should be considered when available training programs and/or curricula do not meet the specific training requirements of the employer.

Customized Training is funded on a reimbursable basis with WIOA Adult funds covering no more than 50 percent of the allowable training costs. Priority of funding will be given to companies that have not used WIOA funding within the prior 12 months. Multiple projects for the same business in the same funding year will be subject to further review based upon projected available funding.

The purpose of this policy is to set forth the requirements for WIOA funded Customized Training and the cost sharing requirements of the employer.

### **Policy Guidelines**

#### **A. Customized Training Framework:**

Customized Training under this Local Policy Bulletin is based on funding availability and requires that:

- Training is conducted with a commitment from the employer to continue the employment of all trainees who successfully complete training;
- The employer agrees to pay no less than 50% percentage of the allowable cost of training, as described in Sections B and D below;
- Training results in an industry-recognized credential or a certificate that demonstrates the quality of work or advanced ability necessary to obtain, retain or advance in employment. Other certificates or credentials may be agreed upon with the approval of BECWIB's Executive Director;
- The number of participants in the proposed customized training class is not less than five and the total WIOA reimbursement of funds to the Employer does not exceed \$30,000 in any one WIOA Plan Year (i.e. July 1 to June 30);
- All Participants enrolled in customized training must continue to be paid by the employer during the hours of training; and
- The hourly wage provided to each trainee within 45 days after the completion of training is at least \$1/hour above NYS standard minimum wage or an increase over the trainee's wage prior to training of at least \$1/hour or 5%, whichever is higher.
- For the cost of training allocated to a training participant to qualify as a reimbursable training cost, the training participant must continue to be employed by the employer for at least 45 days from the completion of training.

## **B. Customized Training Funds**

Customized training funds will be paid on a cost reimbursement basis with WIOA funds covering no more than 50 percent of the allowable training costs.

Employers must contribute not less than 50% of the cost of the training program.

Customized training may be used only to support one of the following categories of business need:

- Training on equipment or technology purchased within two (2) years of the employer's application for customized training.
- Training to offer new services/products to reach new markets
- Training to promote or give current staff new skills to advance into hard-to-fill positions
- Training to update obsolete skills that are necessary in order for the business to be competitive.

Customized training funds cannot be used for the following needs:

- Training that is mandated by the government and considered the responsibility of the business owner (such as sexual harassment training, diversity training, and mandated safety training);
- Ongoing training that is already being provided by the business owner; or
- Training that does not provide transferable or advancement of skills (such as new employee orientation)

## **C. Employer Eligibility**

An employer requesting customized training assistance must fill out the Buffalo and Erie County Workforce Development Consortium, Inc. (WDC) Customized Training Application and submit the required documentation.

An employer's eligibility for Customized Training funds will take into account whether the employer is:

- A for-profit business within a priority sector industry as determined by the WNY Regional Economic Development Council (WNYREDC);
- Current in unemployment insurance and workers' compensation taxes, penalties, and/or interest or related payment plan;
- Located in Erie County;
- Meeting the Fair Labor Standards Act requirements of an employer-employee relationship for those individuals being proposed for training;

- Providing full-time, year-round employment (minimum 35 hours per week) to those individuals being proposed for training;
- Able to contract for customized short-term training services (i.e. not less than 3 weeks or more than 24 weeks);
- Seeking customized training for one of the categories of business-need enumerated above; and
- Able to contribute not less than 50% of the allowable costs of training.

If the application is approved, the employer will be required to enter into a contract with the WDC, which will set forth the terms and conditions for funding reimbursement in accordance with the requirements under WIOA, the NYS Department of Labor and this Local Policy Bulletin.

#### **D. Employer's Cost Share of Training**

Allowable expenses that may contribute to the employer's required cost share of training include the following:

- The cost of instruction materials that are specifically training related, such as books, materials and supplies;
- Certification or testing fees; and
- The wages paid to employees while they actively participate in training; however, the employer's cost share for wages may not be included in the WDC's cost reimbursement to the employer.

Expenses that are not reimbursable customized training costs include, but are not limited to, the following:

- the purchase of capital equipment or software
- travel, food, lodging
- administrative costs
- the renovation of facilities or capital improvements
- compensation or consultant fees not directly related to the provision of training
- employee wages
- Costs incurred prior to the approval date of the application and contract
- Membership fees and/or dues
- Curriculum development
- Conferences
- Advertising/recruitment
- English as a second language
- Team building activities or personality assessments
- Basic or introductory computer literacy (i.e. Intro to Microsoft Word or Excel)

- Coursework towards college degree programs
- Any other activities determined to be business consulting (i.e. strategic planning, coaching, follow-up).

## **E. Employee Eligibility**

Individual(s) receiving training must:

- be 18 years of age or older;
- be a full-time employee who is not on new-hire probation and meets the Fair Labor Standards Act requirements for an employer-employee relationship with the employer;
- Meet all applicable federal Selective Service requirements;
- Earn a rate of pay below the self-sufficiency wage as determined by the Buffalo and Workforce Investment Board, Inc. but not less than the state's minimum wage standards for Erie County;
- Be in need of training in one of the categories of business-needs set forth in Section B above; and
- Have the skills, competencies and qualifications to participate successfully in training.

Part-time employees may be considered if the proposed training will result in their becoming full-time employees immediately following training.

Seasonal employees, independent contractors, contract employees, or individuals employed via a staffing agency are not eligible employees.

## **F. Trainee Enrollment in One Stop Operating System**

All training participants must be enrolled in New York State's One Stop Operation System (OSOS). This enrollment will be processed by WDC Business Services Specialists. The enrollment process will include an individual assessment to determine whether the trainee is (a) in need of training that addresses one of the categories of business-need under this policy, and (b) has the skills, competencies and qualifications to participate successfully in customized training. Justification for customized training, training outcomes and follow-up activities must be clearly documented by WDC staff in the IEP Comment in the trainee's OSOS account.

## **G. Training Providers**

The employer selects the training program and provider for customized training. If the training provider offers certified instruction, it must be licensed through the NYS Department of Education or the sector industry's oversight organization. It will be the responsibility of the employer to ensure compliance with certified instruction.

BECWIB's Eligible Training Provider List (ETPL) may be used to assist with a search for a training provider. Training providers do not have to be on the ETPL to deliver Customized Training, but costs for tuition or instruction must be fair and reasonable.

For tuition and instruction costs to be fair and reasonable, the cost in its nature and amount must not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. It includes such factors as sound business practices, arm's-length bargaining, and market prices for comparable goods or services in our LWDA. The process undertaken by the employer to evaluate tuition and instruction costs must be documented and made available to the WDC for review prior to the commencement of training.

Training providers may include community colleges, vocational-technical centers, state colleges and universities, licensed and certified private entities/institutions, industry specific training organizations, professional associations, or credentialing entities.

Training may be hosted at the employer's facility, the training provider's facility, or a combination of both. It may be delivered in person or online.

#### **H. Reimbursement of Customized Training Costs**

The following pre-conditions must be met before any allowable training costs are reimbursed:

- a. The employer must provide the WDC with the trainees' payroll records in the first week of training as evidence of the trainees' wages at the start of training;
- b. Training must be completed and all signed and dated trainee attendance sheets submitted to the WDC with the names of those who successfully completed training verified by the training provider; and
- c. Within 45 days of the completion of training, the employer must provide to the WDC the payroll records of those who successfully completed training, documenting the trainees' employment retention and wage increase.

Once these preconditions are met, the employer's request for reimbursement must be invoiced in accordance with the stated terms and conditions of the executed Customized Training contract between the employer and the WDC.

#### **I. Record Retention**

The WDC's oversight of the participant's training and payroll-attendance records may be reviewed by Federal, State and local fiscal and program monitors. These entities will have the right to access, examine and inspect any site where any phase of the Customized Training is being conducted. As a result, the Employer will be required to maintain its Customized Training records and accounts in such a way as to facilitate such an audit. Records must be maintained for a three (3) year Record Retention Period. The Record Retention Period begins on the date that final expenditure reports are submitted by NYSDOL to USDOL. Should any audit or litigation issues arise, the records must be retained for the full three (3) year Record Retention Period or until all issues are resolved, whichever is longer [29 CFR 95.53 and Super-Circular 2 CFR 200.333].