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## **Final Guidance for Employed Worker Training (EWT)**

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### **OF INTEREST TO**

Workforce Florida, Inc. (WFI), Regional Workforce Boards (RWBs), service providers and other entities engaged in implementing Workforce Investment Act (WIA) Programs and programs under Title I of the Workforce Investment Act (WIA) of 1998.

### **SUBJECT**

Employed Worker Training—definition, eligibility criteria, recording of credentials, data collection

### **PURPOSE**

The purpose of this issuance is to provide guidance to the RWBs and other entities engaged in implementing Workforce Investment Act (WIA) Programs and programs under Title I of the Workforce Investment Act (WIA) of 1998. The guidance will provide guidelines and clarification to the RWBs for the provision of WIA-funded training services to employed workers and incorporates the provisions received in two federal waivers: 1) (formerly referred to as Waiver #6) enables RWBs to expand their employed worker training (EWT) activities by allowing up to 20 percent of local adult and dislocated worker funds to be expended on incumbent worker training activities, and 2) (formerly referred as Waiver #5) minimizes participant data capture requirements for incumbent worker training programs operated with local WIA funds found at 20 CFR 667.300(a). [See attachment #1.] This guidance also provides clarification to RWBs regarding the employed worker outcome measure and the recording of credentials that will count as an indicator based on state policy. Attachment #2 outlines key distinctions between the state-level Incumbent Worker Training Program and EWT activities funded at the local level.

### **BACKGROUND**

The Workforce Investment Act (WIA) affords many opportunities both at the state and local level to serve incumbent, dislocated and employed workers. The WIA provides that 15 percent of adult, dislocated worker and year-round youth allotments may be reserved to fund state operations, demonstration pilots and other state-level activities. Of this 15 percent, Florida Statutes [s.445.003(3)(a)(2), F.S.] require that \$2 million of these funds

be reserved at the state level for the Incumbent Worker Training Program, administered by Workforce Florida, Inc. (WFI). The purpose of the program is to provide grants to employers to assist with certain expenses associated with skills upgrade training for full-time employees of the company.

The **incumbent worker** is an employed individual who is served as part of the statewide (not local) workforce investment activities authorized at Section 134(a)(3)(A)(iv)(I) of WIA. The Federal Regulations at 20 CFR 665.220 specify that these individuals do not have to meet the eligibility requirements for employed adults and dislocated workers served with local formula funds. States are permitted to establish policies and definitions to determine which workers or groups of workers are eligible for incumbent worker services under this subpart. The business requests the training on behalf of its workers. **The funding for this activity comes from the 15 percent of the state's WIA allocation that is retained at the state level.**

The **employed worker** is an employed individual who is served at the local level. These individuals may be served with local level formula adult funds if they do not qualify as a dislocated worker (see the next section). Like IWT, the focus of serving the employed worker should be the employer. Accordingly, the state's federal waiver eliminates the WIA eligibility requirements found at 20 CFR 663.220(b) and 663.310. In other words, no local self-sufficiency must be met. However, if an RWB provides training that exceeds the 20 percent combined funding threshold and/or offers training services to an individual who is employed but that training request is self-directed--not employer-directed—the WIA eligibility requirements must be met. These individuals may be served by documenting that they are in need of services in order to obtain **or retain** employment that allows for self-sufficiency, in accordance with the locally established definition of that term. *Employed workers who currently meet the local definition of self-sufficiency, but need services in order to retain their self-sufficient employment, may be served if documentation is obtained from the employer, verbally or written, that the employee(s) will not be retained unless additional training or services are received.* **The funding for this activity comes from the WIA local adult allocation.**

The employed worker may be served at the local level as a **dislocated worker** if the individual meets the criteria found in WIA section 101(9); i.e., has been terminated or laid off; has received a notice of termination or layoff; or is employed by a facility that has made a general announcement of a pending plant closure; or was self-employed, but is unemployed as a result of general economic conditions or a natural disaster, or is a displaced homemaker. Please refer to section 101(9) of the Workforce Investment Act of 1998 for more specific eligibility requirements relative to each of the criterion listed above. In many instances dislocated workers are unemployed; however, some may have received a notice of termination or layoff, but remain temporarily on the job.

Dislocated workers who have become re-employed in "income maintenance" jobs (a job with a lower rate of pay than the job of dislocation) may be served as long as the wage earned does not exceed the local criteria for self-sufficiency for dislocated workers. For dislocated workers who have become employed prior to eligibility determination, earnings comprising a certain percentage of the wage earned at the time of dislocation may be the most appropriate to use for determining eligibility (see Q & A #9 in this

paper). **The funding for this activity comes from the WIA local dislocated worker allocation.**

### **Documentation Requirements for Employment Eligibility Verification (I-9) Data**

RWBs that form partnerships with employers for business-led employed worker training initiatives may allow an employer to certify that the Employment Eligibility Verification (I-9) documentation has been collected and is maintained at the worksite. In these instances, the RWB should include language in its local Employer Agreements/Contracts which states that the employer will house the required documentation; and if the participant record is selected for data validation or a quality assurance review, the employer must provide acceptable documentation. **Based on written approval from USDOL, a completed copy of the I-9 document will satisfy eligibility and data validation requirements. At least one of the items used to establish the identity and/or employment eligibility of the participant on the I-9, must contain the name and date of birth of the individual.** It is the responsibility of the RWBs to contact the employer and have the documents available for review.

### **Local Policy Planning Instructions**

The RWBs have been asked to submit a local workforce plan which includes a local employed worker training program for skills upgrade training. Please see the following link for more information:

[http://www.floridajobs.org/PDG/Memos/LocalPlan07\\_09/LocalPlanInstruct07\\_09\\_CvrMemo\\_060407.pdf](http://www.floridajobs.org/PDG/Memos/LocalPlan07_09/LocalPlanInstruct07_09_CvrMemo_060407.pdf)

For information on serving the employed worker with On-The-Job (OJT) Training, please see guidance paper PDI WDCP 00-009, "On-The-Job Training" at the following link: <http://www.floridajobs.org/pdg/administration/009%20onthejob%20training.rtf>

### **EXPANDING EMPLOYED WORKER TRAINING (EWT) ACTIVITIES AT THE REGIONAL LEVEL UNDER THE FEDERAL WAIVER**

With the state's federal waiver, the RWBs are able to expand employed worker training (EWT) activities through a demand-driven business focus by:

**Part 1** - allowing up to 20 percent of local adult and dislocated worker funds as described by WIA Section 133 (b) (2) to be expended on incumbent worker training activities pursuant to the rules adherent to statewide activities described by WIA Section 134 (a) (3)

**Part 2** - the State was approved to allow up to 20 percent of its state-level rapid response funds as described by WIA Section 133 (a) (2) for statewide activities authorized at WIA Section 134(a)(3)(A) including incumbent worker training activities but not for state administration. Listed below are several bullets detailing the specifics of utilizing **Part 1** of this waiver:

- This waiver is good for the length of the WIA Plan (two years) and is set to expire June 30, 2009.

- The RWBs must send notification to AWI to alert the Agency that the RWB intends to use some of its formula funding for incumbent worker training activities. Funds expended for this activity must then be reported in the financial Management Information System on a regular monthly basis. These participants will be treated as adults, and the funds will be treated as Adult funds.
- Training should target skills upgrades. (Do not include local work readiness type credentials, i.e., interviewing skills, resume writing, job search skills, etc.)
- Credentials should be recorded if consistent with the definition found in TEGL 17-05 as a state required measure.  
[http://wdr.doleta.gov/directives/attach/TEGL17-05\\_AttachB.pdf](http://wdr.doleta.gov/directives/attach/TEGL17-05_AttachB.pdf)  
**In addition, “local employer-specific” credentials should be recorded.**
- Employer matches are encouraged but not required.
- An application (with allowable defaults – (See Attachment # 1)) must be entered in Employ Florida Marketplace (EFM).
- These participants should be recorded and served as Adults and will be included in all applicable Adult performance measures and reports.
- Participants being served with only these funds are excluded from the customer satisfaction survey because the employer is the customer and the training is employer led.
- **OSMIS finance module changes** – For Adult and Dislocated Worker formula funds an “Incumbent Worker Training” category has been added to track expenditures.

If RWBs are interested in assisting employers through EWT activities, then they must notify Michael Lynch at AWI of their intent to set aside funds. The RWBs should locally retain documentation to support the use of the funds for these activities (Name, # of employees, type of training, employee wage rates and wage increases, if applicable). After notification, the following WIA activities should be selected in EFM (190- Waiver 6 Core, 290- Waiver 6 Intensive, and 390- Waiver 6 Customized Training) as appropriate.

## **AUTHORITY**

The Workforce Investment Act, the WIA final regulations at 20 CFR Part 652, et al, Florida Statutes Chapter 445, and the State Workforce Investment Plan.

**SUPERSESSION**

AWI FG 07-060 Final Guidance For Employed Worker Training (EWT)

AWI FG 06-059 "Training Services to Employed Workers under the Workforce  
Investment Act (WIA)"

AWI FG 06-053 "Waiver # 6 (Employed Worker Training Funding)"

## QUESTIONS AND ANSWERS REGARDING EMPLOYED WORKER TRAINING

1. *What are the minimum data elements to be captured in EFM?*

**Answer:** See attachment #1.

2. *Should a certificate/credential be recorded when a participant completes training?*

**Answer:** Yes. It has been observed that some regions are not recording certificates/credentials on their employed and incumbent workers. A certificate/credential should be recorded for any participant who completes training or receives an Occupational Completion Point (OCP).

3. *What constitutes a Credential countable under the state's Employed Worker Outcome Rate?*

**Answer:** Any nationally recognized degree or certificate and/or some state/locally recognized credentials. Credentials include, but are not limited to, a high school diploma, including special diplomas; GED or other recognized equivalents; post-secondary degrees/certificates; recognized skill standards; and licensure or industry-recognized certificates.

Attainment of Occupational Completion Points (OCPs) as designated by the Florida Department of Education may also be counted as credentials. The OCPs indicate points in particular vocational programs where a student could leave the program prior to completion and still have learned enough skills to perform a particular job and thus be employable..." (See TEG 17-05 for the federal definition of credential). In addition, some local credentials may be counted. Countable credentials should have a direct correlation to industry standards, employer requirements and should be recorded in EFM as "local – employer specific."

In addition, RWBs may award certificates for completion or achievement of a variety of short-term objectives or activities designed to help equip individuals to enter or re-enter employment, retain employment, or advance into better employment, these types of certificates awarded by the regions are not included in the state's Employed Worker Outcome Rate. For example, local work readiness type credentials (i.e., interviewing skills, resume writing, job searching skills, etc.) that equip unemployed individuals to enter or re-enter employment are not counted under the state's Employed Worker Outcome Rate.

4. *How can I make sure my region gets credit for a credential in EFM?*

Make sure you record the credential information in EFM. Credentials can be recorded when activities are closed, when a WIA Case Closure is recorded, and when a follow-up is recorded.

5. *Is the state's Employed Worker Outcome Measure included as part of the new Balanced Scorecard Report and/or will it be tied to Balanced Scorecard Incentives?*

**Answer:** No. Data related the Employed Worker Outcome Measure will continue to be collected for the purpose of evaluating the effort to train employed workers but it is not included on the State's Balanced Scorecard Report nor will outcomes related to this measure be directly tied to incentives awarded based on Balanced Scorecard outcomes.

The Balanced Scorecard report does include a combined WIA Employment Rate Measure for adults and dislocated workers. This measure applies to all participants and does not exclude those employed at participation as do the federal entered employment measures. Since employed workers who receive training services generally remain employed, employed worker training should enhance outcomes for the new Balanced Scorecard Measure.

6. *Can training providers that do not appear on the State Approved Training Provider List be used to provide training to employed adult workers?*

**Answer:** No, with two exceptions. Training providers that are not on the State Approved Training Provider List may provide on-the-job training or customized training. Please note that employed worker training initiated by a business for its workforce is considered customized training.

7. *How can we maximize our ability to serve the widest range of employed workers in an effort to help those underemployed, as well as retain good paying jobs in our region?*

**Answer:** Developing separate self-sufficiency definitions for employed adults, unemployed adults, and dislocated workers allows local boards to provide services to a wider range of employed workers. Question #10 addresses the issue of a maximally effective definition of "self-sufficiency" for dislocated workers. In local regions where the definition of "priority of service" is contingent upon the local definitions of "self-sufficiency," utilizing definitions, which are customized for particular groups, maximizes the number of customers that can be served, even when funds are limited. Please note that local self-sufficiency definitions are only required when an RWB exceeds the 20 percent threshold for EWT activities and/or for individually requested training when not employer directed.

8. *Is it permissible to use local WIA funds as part of a layoff aversion strategy?*

**Answer:** No. "Layoff aversion" is authorized by the WIA Federal Regulations at 20 CFR 665.320 as a statewide activity only. Local dislocated worker funds may not be used for this purpose. **However, local WIA adult funds may be used to help employed workers "retain" self-sufficient employment.**

9. *What is the difference between "layoff aversion" and "retaining employment"?*

**Answer:** Neither one of these terms have been specifically defined at either the federal or state level.

10. *A dislocated worker in our region became re-employed in an "income maintenance" job, but was not earning what he had been in his previous job. Although now employed, can we still help this person using dislocated worker funds?*

**Answer:** Yes, as long as the dislocated worker's current wage does not exceed the local definition of "self-sufficiency." Since the objective in serving dislocated workers is generally to help them come as close as possible to the income earned at the time of dislocation, defining self-sufficiency for employed dislocated workers as a percentage of the wage that was earned at the time of dislocation (e.g., 80 percent or 90 percent) is advisable. Refer to the RWB's local definition for self-sufficiency.

11. *Are there any other sources of WIA funds that local boards may use to serve employed workers?*

**Answer:** Periodically, WFI issues state-level, competitive demonstration grants for specific outcomes; an example includes BEST—Business Employment Solutions Training as well as USDOL grants (e.g., sectorial demonstration grants).

12. *When using local WIA funds, are individual intakes required for employed workers or can the employer provide trainee information?*

**Answer:** Individual intakes are not required if the essential information can be obtained from the employer's records. For individuals served with local WIA adult and dislocated worker funds, a full EFM application must be completed. Documentation of only the required general and program-specific eligibility information and other minimal, essential information is acceptable.

13. *What if WIA adult funds are limited? Aren't we required to serve priority population groups first, like unemployed, rather than persons with a job?*

**Answer:** The WIA section 134(d)(4)(E) states that in the event that funds allocated to a region for adult employment and training activities are limited, priority for intensive and training services must be given to recipients of public assistance and low-income. However, since funds are generally limited, the availability of other funds for training (e.g., TANF), the needs of specific groups and other appropriate factors should be considered, as determined by Local Board policy. **The process for determining whether to apply priority under this section does not necessarily mean that only public assistance recipients and other low-income individuals may receive WIA-funded adult training services when funds are determined to be limited.**

14. *How can RWBs provide employed worker services to businesses in their region?*

**Answer:** Some RWBs have developed an employed worker training application which captures the mandatory data elements for EFM. See Attachment #1. Also, if a region

exceeds the 20 percent threshold and /or serves an employed individual not at the direction of the employer, the RWB's definition of self-sufficiency may be a certain percentage above poverty level (e.g., 250 percent above Lower Living Standard Income Level) or convert it to an hourly wage to help prioritize which persons should be served based on income. Some RWBs reserve a portion of their WIA Adult funds to work with local economic development organizations on business training needs.

*15. A large company in our region, employing 300 persons, recently merged with another company. In order to remain competitive, the company added a new product line, and its employees will need short-term retraining. Most of the employees' wages exceed the region's definition of a self-sufficient wage, but they are at risk of not being retained by the company. Can we use our WIA Adult funds to retrain these workers?*

**Answer:** Yes. The training is requested by the business on behalf of its workforce; and under the federal waiver, the self-sufficiency criteria need not apply.

*16. Do we need to complete a full application on each of the 300 workers in the scenario described in Question 13?*

**Answer:** Yes. Only mandatory items outlined in Attachment #1 need to be completed

**Note:** When serving employers, all efforts should be made by the RWBs to decrease the burden of data collection to the employer and its employees receiving services.

While serving the employed worker, there are several key points to note:

- The focus of serving employed workers should be the employer.
- Employed workers who are not being provided training of some sort may be better served with Wagner-Peyser funds.
- RWBs can move 100 percent of Dislocated Worker funds into their Adult funding stream or vice versa.

**Sec. 133(b)(4) Transfer authority.** --A local board may transfer, if such a transfer is approved by the Governor, not more than 20 percent of the funds allocated to the local area under paragraph (2)(A) or (3), and 20 percent of the funds allocated to the local area under paragraph (2)(B), for a fiscal year between adult employment and training activities; and dislocated worker employment and training activities.

**Florida received a waiver to allow 100 percent transfer of funds between Adult and Dislocated Worker funding streams. RWBs are reminded that the state's guidance on Supplemental Funding for Dislocated Worker services take into consideration any transfer from formula Dislocated Worker funding to formula Adult funding when determining if supplemental funds are awarded.**

- RWBs can apply at a later date for additional Dislocated Worker and Rapid Response funding.