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**STATE WIA INSTRUCTION NUMBER: 10-01**

**TO:** Local Workforce Investment Area Administrators

**SUBJECT:** Use of Incumbent Worker Training as a Layoff Aversion Strategy

**ISSUANCE DATE:** March 25, 2011

**EFFECTIVE DATE:** Immediately

**Purpose:** This State Instruction provides guidance on the use of Incumbent Worker Training (IWT) as a layoff aversion strategy.

**References:** Workforce Investment Act of 1998 (WIA), as amended (29 U.S.C. 2801 et seq.); WIA Regulations, 20 CFR parts 652 and 660-671; Training and Employment Guidance Letter No. 26-09, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010"; and Training and Employment Guidance Letter No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Workforce Investment Act Funds for Incumbent Worker Training for Layoff Aversion Using a Waiver."

**Background:** The core mission of employment and training programs, particularly the Workforce Investment Act (WIA) program, is to provide unemployed jobseekers with the training and employment services needed in order to obtain good jobs. While services to employed workers are authorized in limited situations, the WIA program is primarily intended to serve the unemployed. However, in recognition of the many benefits that accrue to workers, employers, taxpayers, and communities when layoffs are averted, USDOL has increased state and local flexibility in using WIA funds to address training needs of employed workers as a layoff aversion tool.

Over the last several years, the State and Local Workforce Investment Areas (LWIAs) have successfully operated an Incumbent Worker Training (IWT) model that has assisted businesses and workers in remaining productive and competitive. WIA funds have been used to train employed workers due to business expansion, new technology, retooling, new services/product lines, new organizational structuring, or as part of a layoff aversion strategy. Recent waivers approved by USDOL, have increased the WIA resources available to support layoff aversion efforts through IWT. Each source of funds, and its requirements, is discussed below.

State Reserve Funds: Annual funds distributed for IWT through grants to each LWIA

- Training not required to be part of a layoff aversion strategy, but must align with established state and local funding priorities
- Unexpended IWT funds are recaptured and may be “earmarked” for layoff aversion situations once deobligated by the State

Rapid Response Funds: USDOL approved waiver authorizes use of up to 20% of state set-aside rapid response funds for IWT

- Training must be part of a layoff aversion strategy
- Training is restricted to skill attainment activities
- State required to report performance outcomes in the federal WIASRD for any incumbent worker served (i.e. required VOS tracking and reporting of each individual served)

Local Funds: USDOL approved waiver authorizes use of up to 10% of local dislocated worker funds for IWT

- Training must be part of a layoff aversion strategy
- Training is restricted to skill attainment activities
- State required to report performance outcomes in the federal WIASRD for any incumbent worker served (i.e. required VOS tracking and reporting of each individual served)

**Policy:** The following definition and criteria are intended to guide the workforce system in the use of WIA funds when providing IWT as a layoff aversion strategy.

Layoff aversion: USDOL considers a layoff averted when: 1) a worker’s job is saved with an existing employer that is at risk of downsizing or closing; or 2) 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 no or a minimal period of unemployment.

The use of additional IWT resources restricted to layoff aversion requires criteria to determine a layoff risk, and when and whether IWT is an appropriate response. Consideration must 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.

Employer Assessment

- The company remains open, but it is phasing out a function which will lead to layoffs unless the workers can be retrained to perform new functions.
- A worker’s job has changing skill requirements as a result of external economic or market forces, significant changes in technology or operating processes, rapidly changing industry or occupational job requirements, or emergence of new products.
- The changing skill requirements are outside of normal skill growth and upkeep that would be provided by the employer.

- Training programs reasonably prepare workers to address skill gaps.
- The employer demonstrates a commitment to retain employees or otherwise provide a tangible benefit to employees who receive IWT.

Worker Group Assessment

- Unless provided with training, the potentially laid-off workers do not have marketable, in-demand skills.
- The new skills can be attained in a reasonable period of time.
- The workers have not received formal layoff notices. Such workers can be served with regular WIA Dislocated Worker funds.
- There exists a strong possibility of jobs, either with the existing employer or a new employer, if the potentially laid-off workers attain new skills.

IWT provided with rapid response funds, local dislocated worker funds, or state reserve funds “earmarked” for layoff aversion situations will adhere to the following requirements. These requirements do not apply to state reserve funds regularly granted to LWIAs each year.

- 1) A no-cost, competitiveness review of the business will be conducted by the South Carolina Manufacturing Extension Partnership (SCMEP) prior to entering into an IWT agreement. Such review will:
  - 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 in order to utilize funds for IWT.

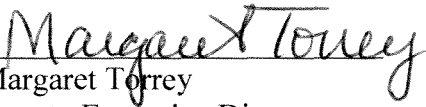
NOTE: A substantially similar review recently conducted of the business, by a third party, may be used in lieu of a review conducted by SCMEP.

- 2) Training providers are to be chosen at the discretion of the company. Training services can be provided through technical colleges, school districts, adult education or licensed and certified private entities and institutions.
- 3) When using rapid response funds or “earmarked” state reserve funds, the IWT agreement may be executed by either the State or the local area as grantor.
- 4) Proposed IWT agreements with business must be reviewed and approved by the State prior to execution to ensure that the layoff risk and the benefit of training have been appropriately determined.
- 5) Training must be completed within 12 months.
- 6) No business matching contribution will be required.
- 7) IWT funds will be used only to address the training needs identified in the SCMEP, or other third party, review.

- 8) All IWT delivered is restricted to skill attainment activities.
  - The training must result in skills that directly benefit the workers receiving the training by making them more qualified in their field of employment and/or providing new skills for new product lines or processes.
  - The skills attained through training should contribute to the maintenance of employment or increase in employment security for workers as described below.
- 9) Training should:
  - help to qualify participants for a job with changing skill requirements or for higher paying jobs with their existing employer or other companies in the area;
  - enable participants to perform work that is at a higher level than their current positions; and,
  - offer certification or other industry-recognized credentials.
- 10) The attached form, along with documentation of a detailed business review, will be used in ensuring that layoff aversion IWT requests adhere to the above criteria.

**Action:** You are responsible for the distribution and implementation of this policy guidance within your local workforce system.

**Inquiries:** Should you have questions regarding this State Instruction, please contact Michelle Paczynski at 803-737-3828 or [mpaczynski@dew.sc.gov](mailto:mpaczynski@dew.sc.gov).

  
Margaret Torrey  
Deputy Executive Director  
Employment and Training

Attachment

**Incumbent Worker Training**  
When Using Funds Restricted to Layoff Aversion

Company: \_\_\_\_\_

Address: \_\_\_\_\_

General Company Information (e.g., type of manufacturing performed, products produced, etc.):

\_\_\_\_\_

Employer Assessment

1. Do business circumstances point to probable layoffs? (e.g., company phasing out a function)

Yes  No  Explain below:

\_\_\_\_\_

2. Are the workers' jobs threatened by changing skill requirements? Yes  No  Explain below:

\_\_\_\_\_

3. Are the changing skill requirements outside of normal skill growth and upkeep that would be provided by the employer? Yes  No  Explain below:

\_\_\_\_\_

4. Does the employer demonstrate a commitment to retain employees who receive training?

Yes  No  Explain below:

\_\_\_\_\_

Worker Group Assessment

1. Would training reasonably prepare threatened workers to address skill gaps?

Yes  No  Explain below:

\_\_\_\_\_

2. Can the threatened workers attain the required skills in a reasonable period of time (i.e., no longer than 12 months)? Yes  No  Explain below:

\_\_\_\_\_

3. Have the workers received formal layoff notices? (If yes, serve these workers with regular WIA Dislocated Worker funds.) Yes  No  Explain below:

\_\_\_\_\_

4. Is there a strong possibility of jobs, either with the existing employer or a new employer, if the workers attain new skills? Yes  No  Explain below:

\_\_\_\_\_

Training Assessment

1. Does the training proposed match the training needs identified in the SCMEP or other third party business review? Yes  No  Explain below:

\_\_\_\_\_

2. Is the training proposed restricted to skill attainment activities? Yes  No  Explain below:

\_\_\_\_\_

3. Will the training result in making workers more qualified in their field of employment? Yes  No  Explain below:

\_\_\_\_\_

4. Does the training offer certification or other industry-recognized credentials? Yes  No  Explain below:

\_\_\_\_\_

Local and/or State Review

Based on information regarding the business, worker group(s) and training proposed, this IWT application appears to meet the requirements for using WIA funds restricted to layoff aversion.

Yes  No

Comments: \_\_\_\_\_

Completed by: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

SCMEP Competitiveness Review (or similar review of business) completed: [Click here to enter a date.](#)  
Business review attached:

State Authorization

Based on the above information and the business review conducted with the company, it has been determined that the company is at risk of laying off workers and that IWT is an appropriate response. Further, the requirements for using WIA funds restricted to layoff aversion have been met.

Yes  No

Comments: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: [Click here to enter a date.](#)