



DYLAN WRIGHT  
DIRECTOR  
OC COMMUNITY RESOURCES

CYMANTHA ATKINSON  
ASSISTANT DIRECTOR  
OC COMMUNITY RESOURCES

VACANT  
DIRECTOR  
ADMINISTRATIVE SERVICES

ANDI BERNARD  
INTERIM DIRECTOR  
OC ANIMAL CARE

JULIA BIDWELL  
DIRECTOR  
OC HOUSING & COMMUNITY DEVELOPMENT

RENEE RAMIREZ  
DIRECTOR  
OC COMMUNITY SERVICES

STACY BLACKWOOD  
DIRECTOR  
OC PARKS

JULIE QUILLMAN  
COUNTY LIBRARIAN  
OC PUBLIC LIBRARIES


# Community Resources

April 8, 2020

**To:** All WIOA Subrecipients of the Orange County  
Workforce Development Board

**From:** Carma Lacy  
Director of Workforce Development

**Subject:** Customized Training Policy  
Information Notice No. 20-OCWDB-03  
Supersedes Information Notice No. 14-OCWDA-03



## **PURPOSE:**

This policy provides guidance to all Orange County Workforce Development Board (OCWDB) One Stop Service Providers on the requirements for the provision of the Workforce Innovation and Opportunity Act (WIOA) Customized Training services.

## **EFFECTIVE DATE:**

This notice is effective on the date of issuance.

## **REFERENCES:**

WIOA (Public Law 113-128)

Workforce Innovation and Opportunity Act, §§ 3(14), 106, 134(c) (3) (D),  
Public Law 113-128.

20 C.F.R. § 680.760

20 C.F.R. § 680.770

2 CFR Part 200, Appendix II.

## **BACKGROUND:**

Work-based training is employer-driven with the goal of unsubsidized employment after participation. Generally, work-based training involves a commitment by an employer or employers to fully employ successful participants after they have completed the program. It can be an effective training strategy that provides additional opportunities for participants and employers in both finding quality work and in developing a quality workforce. Work-based models can be effectively used to target specific job seekers and employer needs.

Customized training is one type of work-based training model and is designed to meet the specific requirements of an employer or group of



COMMUNITY INVESTMENT DIVISION  
1300 SOUTH GRAND  
BLDG. B, SECOND FLOOR  
SANTA ANA, CA 92705  
PHONE: 714.480.6550  
FAX: 714.567.7132

employers. Section 3 (14) of WIOA and the accompanying regulations in 20 CFR 680.760 and 680.770 establish that local workforce development boards (WDB) and the state may offer customized training through an agreement with either a vendor or employer.

### **Policies and Procedures**

Customized training is one of several types of allowable training identified in Section 134 (c) (3) (D) of WIOA. Customized training is designed to meet the specific requirements of an employer (including a group of employers); is conducted with a commitment by the employer to employ an individual upon successful completion of the training; and for which the employer pays:

This training may be offered to individuals under local area formula-funded programs or as a type of incumbent worker training. As a type of training offered in local formula-funded programs, participants must meet all adult or dislocated worker eligibility requirements prior to the start of customized training.

Overall, customized training is training designed to meet the needs of a specific employer, or group of employers (employer consortiums). It may be provided for the introduction of new technologies, new production or service procedures, upgrading existing skills, or other appropriate purposes identified by the local WDB. The employer must commit to employ, or continue to employ, the worker(s) upon successful completion of any form of customized training. As with all training services, the customized training must enable individuals to obtain industry or employer-recognized skills.

Customized training may be provided through individual training accounts (ITAs) or through contracts for services. If the training is provided through an ITA, all requirements of such ITA must be followed, including the use of approved eligible training providers. If a contract is used to provide customized training, this contract must have been established through proper procurement procedures.

### **Business Considerations**

A local provider must not enter into a customized training agreement with an employer who has exhibited a pattern of failing to retain individuals after successful completion of the customized training.

Businesses that fail to meet any of the following qualifying criteria are not eligible to receive funds for customized training:

1. Businesses must not be presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in transactions by USDOL or the state of California. Below are three websites that may be helpful in checking tax, environmental compliance, and debarment status.
  - Federal Debarment Site: <http://www.sam.gov>
  - California Department of Tax and Fee Administration: <https://www.cdtfa.ca.gov/>
2. Businesses must not have any outstanding tax liability for over six months to the state of California. Local providers will require the businesses to disclose any known outstanding tax liabilities with other states prior to entering into contract. The local provider may consider existing out-of-state violations when determining eligibility to receive customized training funds. The local provider must document any resolution

of outstanding tax liability, which may include letters from the business or from the State from which the tax liability occurred.

3. Businesses must ensure that they do not have more than one unfair labor practice contempt of court finding, and that they are not identified as such on the most recent list established by the Secretary of State.
4. California businesses must have all of the approvals, licenses, or other qualifications needed to conduct business in the state and all must be current. Should this status change during the course of the local customized training program activities and the business be disqualified from conducting business in California, all training under the customized training program must cease.
5. Governmental entities, including the city, county and state, may not participate in the local customized training program. Health care providers that are operating as not-for-profit entities are the only allowable exceptions to this prohibition.
6. Businesses that have employees in a lay-off status should not be considered for customized training unless the training would avert additional layoffs.
7. Businesses that have relocated to California and have laid-off workers at their former location in the United States may not be considered for this program until they have been in operation at the new location for 120 days.

To verify that a business is not relocating employment from another area, a pre-award review must be undertaken and documented by the local provider. The review must include the names under which the establishment conducts business, including predecessors and successors in interest; the name, title, and address of the company official certifying the information, and whether WIOA assistance is being sought in connection with past or impending job losses at other facilities of their company. The pre-award review should also include a review of whether appropriate notices have been filed, as required by the Worker Adjustment Retraining Notification (WARN) Act. The review may also include consultations with labor organizations and others in the affected local area(s).

8. Businesses must not have any outstanding civil, criminal or administrative fines or penalties owed to or pending in the state of California.

### **Training Considerations for Customized Training**

Training for customized training will address:

1. Occupations in industries that have documented skill shortages. Careers on the State's in-demand list, high wages, high costs for recruitment, and/or positions that remain unfilled for long periods of time may indicate a shortage of skills within the workforce; and
2. Developing the skills of the workforce so as to lead to enhanced career pathways for individual employees.

Training providers should have satisfactory past performance, accreditation, curricula that lead to credentials, relevant training experience and programs, accredited instructors, high job placement rates, and/or high training completion rates. Training providers should also meet acceptable minimum retention rates for trainees in their field or occupation of training.

The training facility should provide an environment that supports learning and be within reasonable proximity to the participant. The training may take place in the business owned facility, a training provider's facility, or combination of sites.

### **Training Agreements**

Customized training agreements may be written for unemployed as well as employed workers. This type of training may be provided to an eligible employed individual when the employee is not earning a sufficient wage as determined by the local workforce development area's policy, the requirements of a customized training are met, and the training relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, or other locally defined purposes. Employed workers may include full-time, part-time, and/or workers placed through private placement agencies.

The private placement agency and the placement employer should be included in the contract when offering customized training to employers that want to include workers placed through private placement agencies. This is to ensure that all parties agree that successful completion of the customized training will include the placement of the trainees into permanent employment.

Unless the trainee is unemployed, in order to participate in customized training, an "employer-employee" relationship must exist between the trainee and the business that is seeking local WDB approval to perform customized training. Individual workers who are independent contractors are not eligible to participate in customized training. Independent contractors fall under the category of self-employment.

Provisions to be included in the customized training agreement include all of the following:

1. Good and effective agreements should include:
  - The occupation for which training will be provided; the skills and competencies to be achieved and the length of time for the training;
  - The industry- or employer-recognized credential that will be attained upon completion of the training;
  - The number of employees to be trained;
  - The employer's assurance that customized training is needed based upon the individual skill sets of trainees;
  - The method and maximum amount of reimbursement (employer match);
  - Job description(s) of the trainees and a training outline;
  - The cost and documented description of any ancillary items or supportive services that may be needed; and
  - Other appropriate training outcomes related to the training (i.e. increases in earnings).
2. Customized training agreements are to contain appropriate assurances and certifications as specified in this issuance.
3. Written endorsement from a union official is required when the workplace is covered by a collective bargaining agreement.

When working with a group of employers (employer consortiums), the local provider may decide with whom to contract and the details set forth therein. If the consortium is a legal entity and the participating employers are in agreement on their match requirements, the local provider may contract with the consortium directly and accordingly, the match requirement would be paid by the consortium. It is also allowable to enter into individual contracts with each participating employer. Regardless of what entity the contract is with, all requirements, expected outcomes, and assurances described in this issuance must be met.

Prior to the execution of a training agreement, the local workforce development area must obtain a commitment from the participating employer(s) of the following, at a minimum:

1. That successful completion of the customized training will result in portable skills, and retention and placement of the trainee into permanent employment that offers good pay and benefits, with opportunities for career advancement;
2. That continued training will be provided for trainees who need help with remedial skills or other skills in order to retain their jobs; after completion of customized training; and
3. That training will be aligned with industry or employer recognized skill standards, as defined by the WDB and/or the employer.

### **Allowable and Unallowable Costs for Customized Training**

Allowable costs may include only costs directly related to training. Examples of allowable costs include, but are not limited to the following:

1. Instructor's / trainer's training-related wages;
2. Curriculum development; and
3. Textbooks, instructional equipment, manuals, materials and supplies.

Unallowable costs for customized training include, but are not limited to:

1. Trainees' benefits/fringes;
2. Wages of trainees while attending customized training;
3. Costs that are not directly related to customized training for eligible individuals under Title I;
4. Foreign travel; and/or
5. Purchase of capital equipment.

### **Cost Per Participant**

Subject to funding availability and the OJT Trainee's needs, CID limits the training costs to \$4,000 for jobs paying entry level wages defined as \$15.00 per hour; and \$7,000 for higher wage jobs, defined as paying more than entry level wages. Training costs that are more than these limits may be approved by the County of Orange Director of Workforce Development, under special circumstances. Participants who have utilized the maximum allowed under the CID's ITA Policy may also qualify for an OJT with training cost and duration limits described above.

### **Employer Match Requirements**

The employer match cannot include federal, state, or other grant funds. The employer match can be in-kind. However, in-kind match must benefit the training and must be documented.

1. Step 1 is to identify the individual training items and establish the total training budget. This budget may include trainee wages while attending training and the

wages can count for the employer match. But, the WIOA costs cannot include trainee wages.

2. Step 2 is to calculate the employer match and the WIOA cost. This calculation varies based upon allowable and unallowable WIOA costs. Typically, the variable is the trainee wages.

If trainee wages are less than or equal to the employer match, an adjustment is not necessary. Just multiply the total budget by the selected percentage to establish the employer and WIOA expense.

If trainee wages are greater than the employer match, an adjustment is necessary to prevent unallowable WIOA costs. When calculating the employer match and the WIOA costs, subtract the excess wages over selected percentage.

The employer reimbursement rates of the regular wages earned for Customized Training range from a minimum of 50 percent to a maximum of 75 percent. The reimbursement rate is based on the size of the employer as follows:

1. A maximum of 50 percent for large employers defined as having 100 or more employees.
2. A maximum of 65 percent for medium size employers defined as having 20-99 employees.
3. A maximum of 75 percent for small employers with a workforce of 1-19 employees.

Regardless of the reimbursement rate, the following factors must be considered prior to approving a Customized Training contract:

1. The characteristics of the participant(s) with an emphasis on barriers to employment as defined in WIOA Section 3(24);
2. The quality of employer-provided training (e.g., an industry recognized credential, advancement opportunity);
3. The number of participants the employer agrees to hire;
4. The wage and benefit level of the participant (both during and after completion of the Customized Training);
5. The Customized Training position is an in-demand occupation as defined by WIOA Section 3(23) and determined by local labor market information;
6. The Customized Training employer is:
  - In an in-demand industry as defined by WIOA Section 3(23) and determined by local labor market information to supports economic self-sufficiency and local living wage; or
  - In a declining industry that has justification which supports reimbursement above 50 percent (e.g., evidence of long-term viability of the employer) and demonstrates compelling reasoning for Customized Training opportunity to support economic self-sufficiency and local living wage.

Each of the above factors leading to the approval of a Customized Training contract must be documented and placed in the contract file.

## **Participant Case File**

All documentation relative to the selection of a candidate for a Customized Training opportunity and the development and maintenance of the participant's Customized Training Plan should be included in the participant hard or electronic case file. Participant files must be available to federal, state and local monitors for compliance review.

## **Employer Files**

Customized Training Service Providers are required to keep an individual file for each Customized Training. Employer files will include the Employer Pre-Screening Checklist verifying employer eligibility. Employer files must be available to federal, state and local monitors for compliance review.

## **Monitoring**

Monitoring at the local, state and federal level will include the Customized Training Service Provider's oversight of the participant training and corresponding employer payroll records.

On-site monitoring visits should be conducted by the Service Provider Case Manager shortly after the Customized Training Trainee begins work, with additional visits scheduled at appropriate intervals (determined by length of Customized Training Plan).

Effective monitoring also includes desk review of correspondence from the employer, including Customized Training reimbursement invoices and required documentation to support those invoices.

Service Provider Case Managers must regularly review each Trainee's progress in meeting program and service strategy objectives, including the Trainee's acquisition of basic/occupational skills and the adequacy of supportive services provided as related to Customized Training. Any deviations from the Customized Training Contract should be dealt with and documented promptly.

## **Exceptions**

Any exceptions to this policy must be approved by the OCWDB, County of Orange Director of Workforce Development and documented in both the Trainee and Employer files. Exceptions may be allowed for:

1. Employers new to County of Orange;
2. Employers with workers in lay-off status less than 120 days;
3. Training plans exceeding the cost or time limits, or other policy statements not contained in the WIOA or WIOA regulations.

## **ACTION**

Bring this policy to the attention of all affected staff and all relevant parties.

## **INQUIRIES**

If you have any questions regarding this policy, please contact your Contract Administrator at 714-480-6500.

## **ATTACHMENTS**

Attachment I: Customized Training Plan/Invoice



ATTACHMENT I
CUSTOMIZED TRAINING PLAN/REIMBURSEMENT INVOICE

Participant:

Employer:

Occupation:

Table with 3 columns: Training Plan (List Work Elements, Skills, Duties, or tasks for which the training will be provided. Use additional pages if needed), Date Provided, Proficient Y/N. Rows 1-10.

Itemization of actual costs incurred for training:

Table for itemization of costs. Columns: Item (Direct staff/Instructor Time, Training Materials, Other (list:), Total Cost of Training), Amount (\$), Amount of Reimbursement (\$).

I certify that training was provided in the skills and duties outline above and the recorded costs are actual. The above information is accurate and represents my determination of the individual's performance

Table for signature and date. Columns: Employer's Signature, Date.