

# **SFWIB EMPLOYED WORKER TRAINING (EWT) POLICY**

## **I. OF INTEREST TO**

The Employed Worker Training (EWT) Policy should be of interest to members of the South Florida Workforce Investment Board (SFWIB), SFWIB staff, Contractors (Service Providers), Training Vendors, Businesses, and Employees in Region 23 (Miami-Dade and Monroe counties).

## **II. SUBJECT**

Employed Worker Training (EWT)

## **III. PURPOSE**

The purpose of the EWT Policy is to provide all SFWIB stakeholders with parameters regarding the use of training funds through EWT. As seen in the Department of Economic Opportunity (DEO) formally Agency for Workforce Innovation (AWI) Final Guidance 060, EWT is provided by Regional Workforce Boards using formula WIOA Adult and Dislocated Worker funds.

## **IV. STATUTORY AUTHORITIES**

Workforce Innovation and Opportunity Act (WIOA), Public Law (Pub. L.) 113-125 enacted July 22, 2014, supersedes Public Law 105-220, Workforce Investment Act of 1998 (WIA)

Florida Statutes, Title XXXI, Chapter 445, Workforce Innovation Act of 2000

Title 20 Code of Federal Regulations (Title CFR 20)

## **V. BACKGROUND**

The WIOA recognizes that employed workers may require assistance in order to obtain or retain jobs that lead to self-sufficiency. It allows the use of local formula funds to serve “employed workers”. SFWIB provides EWT in the form of Customized Training via a grant application with a business (public, private non-profit or private for-profit), Service Provider, and an eligible employed worker. Through EWT, businesses may receive funding to assist in upgrading the skills of their current workforce that may lead to a self-sufficient wage.

## **VI. DEFINITIONS**

### **A. *Employed Worker Training (EWT)***

1. An individual currently working who has been determined by the employer to be in need of skills upgrade that will lead to self-sufficiency in accordance with locally established definition of that term;
2. Provides training to an employed worker who currently meets the local definition of self-sufficiency, but needs services in order to retain their self-sufficient employment, and also may be served if documentation is obtained from the business that the employee will not be retained unless additional training or services are received;
3. Allows a business to request training on behalf of their employees to retain self-sufficient employment; and/or who is in need of skills upgrade and may obtain a promotion or wage increase that leads to self-sufficiency;

4. 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 also be served as long as the wage earned does not exceed the local criteria for self-sufficiency for dislocated workers;

### **B. Self-Sufficiency**

Self-Sufficiency is an SFWIB-identified wage that allows an individual to provide for oneself without assistance. The local definition of “self-sufficiency” may be different for adult employed workers and dislocated workers, and should take into account individuals with barriers

### **C. Conflict of Interest**

1. SFWIB will not favor a grant application from and/or to a member of the SFWIB over another business in the community. EWT shall be made based upon what will be most beneficial to the employed worker and business.
2. The SFWIB shall be notified whenever a EWT Application is connected to a SFWIB member, Service Provider or employee.
3. Service Providers are prohibited from recommending a EWT grant application or making EWT referrals to businesses who are members of their immediate family or members of families of other Service Provider staff or SFWIB staff.
4. The contracted EWT business shall not train an employed worker who is a relative (member of the family) of the business. Relative is defined as: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister. (Section 112.3135, Florida Statutes)

### **D. 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 such as occupational completion points (OCP); licensure or industry-recognized certificates; and, successful completion of OJT and Customized Training.

Local credentials may be counted. Countable credentials should have a direct correlation to industry standards, requirements of the business and should be recorded as “employer specific”. In some instances, attainment of Occupational Completion Points (OCPs) as designated by the Florida Department of Education may also be counted as credentials.

## **VII. ELIGIBILITY**

### **A. Business**

Prior to developing a grant application for EWT services with a business, the business shall be deemed eligible.

Businesses that meet the following criteria are considered eligible and may, subject to available funding, submit a EWT grant application:

1. Located in the State of Florida;

2. Hold valid business tax receipt (formerly an occupational license) and/or zoning permit;
3. Maintains Workers Compensation Insurance (if applicable);
4. Active business as verified by Florida Department of State Division of Corporations ([www.sunbiz.org](http://www.sunbiz.org));
5. Business has operated at current location for at least 120 days.
6. Have at least one full-time employee

***B. Employed Worker (Adult or Dislocated)***

Employed adults and dislocated workers that meet the eligibility criteria under WIOA Adult and WIOA Dislocated, subject to available funding, may receive EWT through an approved EWT grant application. An eligible individual currently working is defined in Section VI (A) (1-4).

***C. Service Providers***

Entities that have a current Workforce Services contract are eligible.

***D. Training Vendors***

Businesses providing training to Employed Adult and Dislocated Workers through EWT may, at its discretion, utilize Training Vendor(s) that do or do not appear on the SFWIB-approved Training Vendors List.

**VIII. EWT Application/Agreement**

***A. Conditions***

1. Employed Workers may not commence training and businesses may not make training-related purchases prior to SFWIB approval of the EWT grant application. The agreement is executed when signed by all required parties, i.e., Service Provider and business.
2. EWT funds may not be used or proposed to be used for:
  - a. The encouragement or inducement of a business, or part of a business, to relocate from any location in the United States, if the relocation results in any employee losing his or her job at the original location;
  - b. Customized training, skill training, or on-the-job training or company specific assessments of job applicants or employees of a business or a part of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation has resulted in any employee losing his or her jobs at the original location.
  - c. Pre-award review. To verify that an establishment which is new or expanding is not, in fact, relocating employment from another area, standardized pre-award review criteria developed by the State must be completed and documented jointly by the local area with the establishment as a prerequisite to WIOA assistance.
  - d. The review must include names under which the establishment does business, including predecessors and successors in interest; the name, title, and address of the company official certifying the information, and whether WIOA assistance is sought in connection with past or impending job losses at other facilities, including a review of whether WARN notices relating to the employer have been

filed. The review may include consultations with labor organizations and others in the affected local area(s). (WIOA sec. 181(d).)

3. The following three sections must be pre-negotiated and included in the EWT agreement:
  - a. Percentage of Reimbursement;
  - b. Frequency of reimbursements;
  - c. Timeframe for achievement of credentials;
  - d. Maintain Workers Compensation Insurance as outlined in Section VII (A) (4).
4. Employees selected by the business for training must be eligible as indicated in Section VII (B). EWT applications must be submitted to SFWIB as outlined in the SFWIB EWT Procedures.
5. EWT is available to businesses that meet the eligibility requirements stated in Section VII (A). Those deemed eligible may train all of its current employees (including those living outside of Region 23).
6. The appropriate signatory for the business shall be either the owner where the business is incorporated; a partner where the business is a partnership; or an officer if the business is a corporation. Corporations sometimes designate signatories other than their officers. In such instances, written authority transferring signatory responsibilities must be obtained by the individual responsible for developing the agreement.
7. Service Providers are responsible for reviewing the application with the business prior to submission to SFWIB to ensure that the business wholly understands and are familiar with the requirements of a grant award.
8. Businesses approved for funding by SFWIB must enter into an agreement with the Service Provider and commit to completing the training as proposed in the application and/or as negotiated with SFWIB or the Service Provider.
9. The employed worker's credential attainment must be adequately documented by the business and Service Provider. The Service Provider should also record the information in the appropriate State and local Workforce system(s) and place a copy in the participant's file.
10. Businesses shall establish and maintain records with respect to all matters covered by the EWT agreement. Businesses shall retain such records for at least five (5) years from the date of final payment, or until all related federal and state audits or litigation is completed, whichever is later. Businesses shall allow public inspection of all documents, papers, letters or other materials made or received by the business in conjunction with the EWT agreement, unless the records are exempt under federal or state law.
11. Businesses must certify that all information provided for the purposes of requesting reimbursements and reporting is true and accurate.
12. Business must agree to comply with the provisions of the Certification Regarding Lobbying, Certification Regarding Debarment, Suspension and Other Matters, Public

Entity Crime, Florida Clean Indoor Air Act and the Certification regarding a Drug-Free Workplace.

13. Business shall comply with the nondiscrimination and equal opportunity provisions of federal or state law.

**B. Application Review**

1. The SFWIB Executive Director will have the authority to approve application request \$50,000 or less. Awards will be included in the Executive Director's report to the SFWIB.
2. Requests exceeding \$50,000 must be approved by the SFWIB and/or appropriate Council at the next meeting.
3. Applications that fail the SFWIB review process may not be recommended for approval.

**C. Duration**

1. An EWT agreement shall be limited to the period of time required for an employed worker to obtain the skills necessary for credential attainment as proposed in the application and/or as negotiated with SFWIB or the Service Provider.
2. EWT commencing at the beginning of the Program Year (PY) July 1<sup>st</sup> must be completed prior to the end of the PY, June 30<sup>th</sup>.

**D. Funding and Compensation**

For purposes of the provision of EWT under this policy, an employer may be reimbursed a portion of the cost of training a participant, taking into account the size of the business and such other factors in accordance with the Law. Businesses entering into a EWT agreement must provide a minimum 10% matching contribution to the training project.

The required employer match shall be no less than the following:

- i. 10 percent for companies with 50 or fewer employees
  - ii. 25 percent for companies with 51-250 employees
  - iii. 50 percent for companies with 251 or more employees
1. Training Vendors are paid by the business for training costs.
  2. SFWIB will set aside a pool of training funds that will be utilized for EWT initiatives.
  3. Businesses will be reimbursed by Service Providers with the final reimbursement upon the completion of the last training and credential attainment, and proper documentation has been provided. The reimbursement amounts will be based upon the relevant funding stream requirements and any waivers at the time of the agreement. As seen in Section X of this policy, Service Providers may submit a written request to the SFWIB Executive Director to approve an exception to the reimbursement process.

**E. Training Completion and Outcomes**

1. All EWT initiatives shall be performance based with specific measurable outcomes, including training completions and the number of employees trained.

2. Training must result in the attainment of a credential that leads to self-sufficiency, as established during the contract negotiations.

**IX. GRIEVANCES AND APPEALS**

- A. Service Providers shall advise employed workers of their right of appeal using either the business' grievance procedures, or those of the SFWIB, if previously agreed with the business. If a business elects to use its own grievance procedures, the business must agree to provide information to SFWIB as to actions taken under those procedures. If the employed worker is not satisfied with the outcome after using the business' grievance procedures, then he/she may elect to file a grievance with SFWIB under the SFWIB grievance procedures.
- B. If the application is not approved, the appropriate SFWIB staff shall notify the business in writing. Businesses may appeal an application denial by the SFWIB in accordance with the SFWIB appeal process.

**X. EXCEPTIONS**

Exceptions to this policy, or any part thereof, must be approved in writing by the SFWIB Executive Director.

**XI. PROHIBITIONS**

1. A participant in a program or activity authorized under Title I of WIOA must not displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).
2. A participant in a program or activity under Title I of WIOA may not be employed in or assigned to a job if:
  - a. Any other individual is on layoff from the same or any substantially equivalent job;
  - b. The employer has terminated the employment of any regular, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy so created with the WIOA participant; or
  - c. The job is created in a promotional line that infringes in any way on the promotional opportunities of currently employed workers.
3. Participants shall not be employed to carry out the construction, operation, or maintenance of any part of any facility that is used or to be used for sectarian instruction or as a place for religious worship (except with respect to the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity providing services to participants).
4. Businesses that fail to meet the conditions as outlined in the executed agreement may not be considered for future EWT.

5. No officer, employee, agent, or representative of the Business or Service Provider may charge a participant a fee for the placement of such individuals in or to a training funded under an EWT agreement or amendments thereof.
6. EWT funded agreements must not impair existing contracts for services or collective bargaining agreements. When a program or activity authorized under Title I of WIOA would be inconsistent with a collective bargaining agreement, the appropriate labor organization and employer must provide written concurrence before the agreement is initiated.
7. EWT funds shall not be used for any political activity, lobbying of federal, state or local legislators, or to promote or oppose unionization.
8. EWT funds may not be used to directly or indirectly assist, promote or deter union organizing.
9. EWT funds shall not be used to fund employees of home-based businesses.
10. The encouragement or inducement of a business, or part of a business, to relocate from any location in the in the United States, if the relocation results in any employee losing his or her job at the original location.