

RULES  
Department of Labor  
Customized Training - Fund  
(LAC 40:XVI.101 - 113)

Title 40  
LABOR AND EMPLOYMENT  
Part. XVI. Customized Training

Chapter 1. Workforce Development Training Fund

Section 101. Definitions

Account - the Workforce Development Training Account.

Applicant - the business requesting training assistance from LDOL under this program, including a registered joint labor and employer group-administered apprenticeship program under Section 103.A.4.

Award - funding approved under this program for eligible training activities.

Awardee - an applicant (and/or company(ies)) receiving a training award under this program.

Contract - a legally enforceable agreement between LDOL, the applicant and a training provider governing the terms and conditions of the training award.

Contractee - the applicant and training provider that are party to a training award contract with LDOL under this program.

Incumbent Worker - a worker who is currently on the payroll of the applicant.

Individual Standardized Training - off-the-shelf training that is not customized to the needs of the individual applicant and that is currently offered by a training provider at the time the application is filed with LDOL; to be provided through the Small Business Employee Training Program and to be administered in accordance with Section 113.

LDOL - the Louisiana Department of Labor.

Monitoring Entity - means a public or private entity contracted or selected to monitor the compliance of a contractee with the terms and conditions of a training award contract.

Secretary - the secretary of the Department of Labor.

Supplant – diversion of normal training funding for other uses simply because training funds are awarded under the Incumbent Worker Training Program.

Training Provider – the entity providing the customized training for the awardee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workforce Development, LR 25:1142 (June 1999), amended LR 26:1629 (August 2000), LR 29:2497 (November 2003), amended by the Department of Labor, Office of the Secretary, LR 30:2329 (October 2004).

### Section 103. Eligibility

- A. An applicant shall be eligible for customized training if it is one of the following:
1. An individual employer that seeks to provide customized training for his incumbent workers to prevent job loss caused by obsolete skills, technological change, or national or global competition;
  2. An individual employer that seeks to provide customized training for its incumbent workers to create, update, or retain jobs in a labor demand occupation;
  3. An individual employer that seeks to provide customized training for its incumbent workers to update or retain jobs in an occupation which is not a labor demand occupation, if the administrator determines that the services are necessary to prevent the likely loss of jobs;
  4. A labor or community-based organization that seeks to provide customized training for a labor demand occupation for workers who are incumbent to an industry, were attached to a contributing employer within the last 12 months, and are not receiving unemployment insurance benefits at time of training;
  5. A consortium made up of one or more educational institutions and one or more eligible individual employers, labor, or community-based organizations that seeks to provide customized training for incumbent workers in labor demand occupations;
  6. A local economic development entity and one or more eligible individual employers that seek to provide customized training for incumbent workers in a labor demand occupation.
- B. Qualified businesses currently receiving training for their employees may, upon the expiration of contracts, apply for new training grants for training of new employees, previously untrained employees, or for additional training of previously trained employees.
- C. All applications by eligible applicants for customized training shall be submitted in conjunction with the entity selected by the applicant to provide the customized training. All disbursements of funds for the

training shall be made to the entity actually providing the customized training. To be eligible, the training provider selected by the applicant must demonstrate a history of:

1. successful training through its placement, retention, and satisfaction rates;
2. collaboration with the targeted industry in the development of the training program curriculum;
3. use of a current industry standard as the basis for programs utilized to train students for employment in the targeted industry.

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HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workforce Development, LR 25:1142 (June 1999), amended LR 29:2498 (November 2003).

#### Section 105. Criteria

- A. Employer(s) must have been in business in the state for at least three years, contributing to the workforce development training account, and be in full compliance with Louisiana unemployment insurance laws. In the case of a buyout or merger, LDOL will use data from the Tax Operations Unit of the Office of Regulatory Services to determine whether or not an applicant will be allowed to carry over operation time of a previous entity.
- B. No single employer or consortium shall receive more than 10 percent of the total funds available to the program during a fiscal year. An employer with multiple operations sites and a single unemployment insurance tax identification number shall be limited to a single application which may encompass training at the various sites, so long as the amount awarded under the application does not exceed the maximum award amount. When an employer has more than one site and each site maintains a different unemployment insurance tax identification number, the employer may apply for a separate training award under each tax identification number.
- C. Employers receiving awards must provide evidence satisfactory to LDOL of their long-range commitment to employee training and that funds shall be used to supplement and not supplant existing training efforts.
- D. Applicants must request training for at least 15 employees and where applicable, the training provided must meet, at the minimum, the safety standards determined by OSHA.
- E. Special emphasis shall be placed on entry-level/incumbent training programs.
- F. Preference will be given to employers that have:
  1. selected a public training institution as the training provider;
  2. donated materials, equipment, or instructors to public training providers, secondary and

postsecondary vocational-technical schools, or community colleges within the state;

3. hired recent recipients of public assistance such as JTPA/WIA, unemployment benefits, FITAP, and rehabilitative services;
4. hired individuals recently released from a correctional facility;
5. participated in a workplace safety consultation with employees of the Office of Workers' Compensation Administration;
6. listed job openings with LDOL;
7. never received a training award under this program.

G. Employers seeking a training award may not select as a training provider:

1. any entity whose principal owner is an immediate family member, as defined in the Code of Governmental Ethics, of an individual in a management position with the employer who has the authority to make decisions regarding the training program; or
2. any related business such as a parent, subsidiary, or partner of the applicant.

H. Nothing contained herein shall prohibit the selection of a training proprietary school or private institution as a training provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, LR 25:1143 (June 1999), amended LR 26:1629 (August 2000), LR 28:2203 (October 2002), LR 29:2498 (November 2003), amended by the Department of Labor, Office of the Secretary, LR 30:2329 (October 2004).

#### Section 107. Application Procedure

LDOL will provide a standard form which applicants will use to apply for assistance. The application form will contain, but not be limited to, detailed descriptions of the following:

1. an overview of the company, its history, and the business climate in which it operates;
2. the company's overall training plan, including:
  - a. a summary of the types and amount of training currently provided by the company and a description of how the company determined its training needs, and

- b. the specific training programs for which LDOL assistance is requested including descriptions of the training methods, the training providers, and the costs associated with the proposed training; and
3. any additional information the secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workforce Development, LR 25:1143 (June 1999), amended LR 26:1630 (August 2000)

#### Section 109. Submission and Review Procedure

- A. Applicants must submit their completed application to LDOL. Submitted applications will be reviewed and evaluated by LDOL staff. All applications will be measured using a rating system as an evaluation tool that will enable LDOL staff to determine which applications should receive approval, be deferred to future funding cycles, or be denied outright. Input may be required from the applicant, other divisions of the Department of Labor, and other state agencies as needed, in order to:
  1. understand the labor market conditions the proposed training is seeking to mitigate;
  2. evaluate the strategic importance of the proposed training to the economic well-being of the state and local communities;
  3. determine whether the employer's specific needs are best met by training;
  4. identify the availability of existing training programs which could be adapted to meet the employer's needs;
  5. identify the resources the business can provide to support the training, including trainers, facilities, materials and equipment;
  6. identify or develop appropriate curricula; and
  7. determine the most cost effective approach to meet the employer's training needs.
- B. If any applicant is submitting an application in conjunction with a private training provider, the applicant may be required to submit a cost/price/performance analysis on a form provided by LDOL at the time the application is submitted.
- C.
  1. Upon determination that an application meets the eligibility criteria for this program and is deemed to be beneficial to the well-being of the state, LDOL staff will then

make a recommendation to the secretary. The application will then be reviewed by and is subject to the approval of the secretary.

2. A copy of the application shall be sent to the executive director of the Louisiana Workforce Commission.
3. The secretary will issue a letter of commitment to the applicant within five working days of approving the application.
4. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workforce Development, LR 25:1143 (June 1999), amended LR 26:1630 (August 2000), LR 29:2498 (November 2003), amended by the Department of Labor, Office of the Secretary, LR 30:2329 (October 2004).

#### Section 111. General Award Provisions

##### A. Award Contract

1. A contract will be executed between LDOL, the applicant (and/or company(ies) receiving training) and the training provider. The contract will specify the performance objectives expected of the company(ies) and the training provider and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time lines for job training.
2. The monitoring entity will monitor the progress of the training.
3. LDOL will reimburse the training provider from invoices submitted by the training provider on a form approved by LDOL and disburse funds from invoices or certificates of work completed.
4. The cost associated with the contract between the monitoring entity and the applicant will be considered part of the total training award, but will not exceed 5 percent of the award amount or \$10,000, whichever is less.
5. Funds may be used for training programs extending up to two years in duration, or up to three years upon approval of the Secretary.

##### B. Use of Funds

1. The Louisiana Workforce Development Training Account offers financial assistance in the form of a grant for reimbursement of eligible training costs specified in the award agreement.

2. Eligible training costs may include, inter alia, the following:
  - a. instruction costs: wages for instructors and training coordinators employed by the applicant or training provider, Louisiana public and/or private school tuition, contracts for vendor trainers, training seminars;
  - b. travel costs (limited to 30 percent of the total training award): travel for trainers and training coordinators (company and training provider), and travel for trainees; travel expenses reimbursable under this agreement will comply with State Travel Regulations, PPM 49;
  - c. materials and supplies costs: training texts and manuals, audio/visual materials, skills assessment (documents or services to determine training needs), raw materials (for manufacturing and new employee on-the-job training), Computer Based Training (CBT) software; and
  - d. other costs: facility rental associated with the training contract and fees or service costs incurred by the monitoring entity associated with the contract to monitor the training.
3. Training costs ineligible for reimbursement include:
  - a. trainee wages and fringe benefits;
  - b. non-consumable tangible property (e.g., equipment, calculators, furniture, classroom fixtures, non-Computer Based Training (CBT) software), unless such property will be owned by a public training provider at the conclusion of the training contract;
  - c. out-of-state, publicly supported and private schools;
  - d. employee handbooks;
  - e. scrap produced during training;
  - f. food, refreshments; and
  - g. awards.

C. Conditions for Disbursement of Funds

1. Funds will be available on a reimbursement basis following submission of original invoices to LDOL to the attention of the Incumbent Worker Training Program Manager, Office of Workforce Development by mail or hand delivery. Only funds spent on the project after the secretary signs the

contract will be considered eligible for reimbursement. LDOL shall make a determination regarding an invoice within 15 working days after receipt of the invoice and will make payment within 15 working days of approval of said invoice. Certain invoices that need priority attention shall be clearly marked “priority” and LDOL shall make a good faith effort to expedite the processing of such invoices. Invoices regarding the purchase of equipment must be accompanied by documentation confirming delivery.

2. Invoices will be eligible for reimbursement at 100 percent of the total invoice amount until the sum of disbursements under a contract are equal to 90 percent of the total grant award. After the applicant and the training provider have achieved 100 percent of their contracted performance objectives or have substantially complied with the terms of the contract as determined by the secretary, the remaining 10 percent of the grant award will be made available for reimbursement.
3. All disbursements of funds shall be made to the training provider actually providing the customized training.

#### D. Compliance Requirements

1. Training Providers shall be required to complete quarterly reports describing progress toward the performance objectives specified in their contract with LDOL. Training providers shall also be responsible for providing documentation to LDOL on a quarterly basis regarding the satisfaction of the business receiving training under the contract.
2. In the event the applicant or training provider fails to meet its performance objectives specified in its contract with LDOL, LDOL shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the applicant and/or training provider in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.
3. In the event LDOL decides to withhold award funds, modify the terms and conditions of an award, or reclaim disbursed funds from the applicant and/or training provider, LDOL shall provide notice of such determination to the applicant and training provider within three working days of such decision.
  - a. The applicant or training provider may appeal an adverse decision made by LDOL by providing written notice of objection to the secretary within five working days of receipt of the adverse decision. If a request for an appeal is made, then the appellant shall submit documentation to support the appeal within ten working days after forwarding notice of the appeal. The secretary shall review the evidence submitted and render a written decision within twenty working days after receiving notice of the appeal. If no appeal is filed within the applicable time period, the decision of LDOL shall become final.
  - b. If after review of the appeal, the secretary renders a decision that is adverse to the

appellant, then the matter shall be subject to review by the commissioner of administration pursuant to R.S. 39:1524 and 39:1525.

4. In the event the applicant or monitoring entity knowingly files a false statement in its application or in a progress report, the applicant or monitoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in La. R.S. 14:133.
5. LDOL shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the applicant and the monitoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, LR 25:1143 (June 1999), amended LR 26: 1631 (August 2000), LR 29:2498 (November 2003), amended by the Department of Labor, Office of the Secretary, LR 30:2330 (October 2004).

#### Section 113. Small Business Employee Training Program

- A. For purposes of this Part, small business is defined as a Louisiana based business that has 50 or less employees and is an eligible applicant as outlined in Section 103.A. The applicant will be reimbursed for the eligible costs associated with the training once the training has been completed and proper documentation has been submitted to LDOL.
- B. Applicant can not receive customized training and small business employee training concurrently.
- C. The applicant must submit the Small Business Employee Training Program application and receive LDOL approval, in writing, prior to the start of any training.
- D. Applicant must be current on all state UI tax obligations.
- E. Trainees must be incumbent workers for whom the applicant incurs a state unemployment tax liability under R.S. Title 23, Chapter 11.
- F. The request for training must be in a labor demand occupation as defined in the Workforce Investment Act of 1998 (WIA) or cluster based industry as defined in Vision 2020.
- G. Small business training can consist of the following:
  1. taking a class, either non-credit or credit, at an educational institution under the policy or direct management authority of the Board of Regents;

2. receiving training from a manufacturer or their representative within one year of the purchase of equipment valued at more than \$3000 where the training is not otherwise incorporated into the purchase price of the equipment;
  3. receiving training from a manufacturer or their representative in order to upgrade computer skills;
  4. receiving training from a national, regional or state trade association, that offers an independently certified training curricula and testing, which can demonstrate a successful training history of at least five years.
- H. The proposed training provider under Paragraph G.1 must be domiciled in Louisiana and contribute data to LOIS Scorecard as required by R.S. 23:75 which shows a demonstrated history of successful training in the particular instruction that will be given.
- I. Training costs shall not exceed \$3000 per trainee per fiscal year.
- J. Training costs can be any of the following:
1. tuition;
  2. required textbooks and manuals.
- K. Training must be completed by the end of the state fiscal year (June 30) in which it was begun.
- L. Upon completion of the training, the employer must submit invoices for training expenditures along with proof of payment, proof of completion from the training provider, as well as proof of a pay increase or wages that were paid for the training hours attended, all within 30 days of the completion of the training.
- M. An application shall be deemed approved by LDOL upon written approval of the Secretary of Labor or their designee. A letter of approval shall be forwarded to the applicant within five working days of approval of the application.
- N. The Small Business Employee Training Program shall be funded at 2.3 percent of all funds available for training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, LR 29:2499 (November 2003), amended by the Department of Labor, Office of the Secretary, LR 30:2330 (October 2004).