

TEXAS WORKFORCE COMMISSION
Workforce Development Letter

ID/No:	WD 14-19, Change 2
Date:	June 28, 2021
Keyword:	ETP; WIOA
Effective:	Immediately

To: Local Workforce Development Board Executive Directors
Commission Executive Offices
Integrated Service Area Managers

From: Courtney Arbour, Director, Workforce Development Division



Subject: **Workforce Innovation and Opportunity Act: Individual Training Accounts and Training Contracts—Update**

PURPOSE:

The purpose of this updated WD Letter is to provide Local Workforce Development Boards (Boards) with guidance and information on Workforce Innovation and Opportunity Act (WIOA)–funded Individual Training Accounts (ITAs) and training contracts, specifically:

- WIOA funds for training;
- consumer choice requirements;
- links to target occupations;
- ITAs;
- ITA limits;
- exceptions to ITAs;
- using training contracts; and
- incumbent worker training.

RESCISSIONS:

WD Letter 14-19, Change 1

BACKGROUND:

The purpose of WIOA is to increase individuals' access to, and opportunities for, the employment, education, training, and support services needed to succeed in the labor market. This particularly holds true for individuals with barriers to employment. WIOA also provides workforce development activities that increase participants' employment, retention, earnings, and attainment of postsecondary credentials. Job seekers are provided career and/or training services based on the results of career planning interviews and/or assessments. Eligible individuals may

be approved for training programs included on the statewide Eligible Training Providers List (ETPL) following approval of ITAs.

PROCEDURES:

No Local Flexibility (NLF): This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

Local Flexibility (LF): This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”

WIOA Funds for Training

NLF: Boards must ensure that training providers are informed that:

- WIOA training funds are only available to training programs included on the statewide ETPL or locally approved out-of-state programs¹;
- inclusion on the ETPL does not guarantee that funding will be provided for any student; and
- Boards, not training providers, determine an individual’s eligibility for WIOA, including the need for training.

NLF: Boards must ensure that there are procedures in place to determine and document a customer’s need for training and the use of WIOA funds for training based on the results of a locally determined assessment, interview, or evaluation:

- of the skills levels and service needs of adults and dislocated workers; and
- career planning, in accordance with the Texas Workforce Commission’s (TWC) Workforce Innovation and Opportunity Act Guidelines for Adults, Dislocated Workers, and Youth (WIOA Guidelines).

For additional information, see TWC’s Financial Manual for Grants and Contracts, Chapter 8: Cost Principles, General Allowability Criteria section, at <https://twc.texas.gov/financial-manual-grants-contracts-chapter-8-cost-principles>.

Consumer Choice Requirements

NLF: Boards must maximize informed consumer choice in the selection of an Eligible Training Provider (ETP) or training service by ensuring that Workforce Solutions Office staff provides customers with:

- the statewide Eligible Training Providers List (ETPL), including a description of approved programs;
- performance and cost information relating to the approved training programs offered by ETPs; and

¹ Out-of-state programs must meet requirements of TWC Chapter 840 WIOA Eligible Training Providers rule §840.64, as described by WD 12-19, Change 2.

- information on available local work-based training providers, on-the-job training (OJT), customized training, internships, registered apprenticeships, or incumbent worker training.

Links to Target Occupations

NLF: Boards must ensure that training services funded through ITAs, with the exception of registered apprenticeship programs, are directly linked to:

- occupations that are on the Board’s Target Occupations List or are on the Target Occupations List for another local workforce development area (workforce area) to which an eligible participant is willing to commute or relocate; or
- occupations that have been determined on a case-by-case basis to have a high potential for sustained demand and growth in the workforce area, based on sufficient and verifiable documentation, in accordance with the Board’s procedures and TWC rule §841.34(b).

Individual Training Accounts

NLF: Boards must be aware that an ITA is:

- used by participants for training services;
- WIOA funded; and
- established on behalf of a WIOA adult, dislocated worker, out-of-school youth or in-school youth participant, or other program participant eligible for training services.

NLF: With few exceptions (listed under **Training Contracts** below), Boards must be aware that WIOA requires that training provided to eligible adults and dislocated workers be paid for using ITAs.

LF: Boards may use ITAs to fund training programs for eligible WIOA in-school and out-of-school youth. Boards may also use ITAs to fund training programs for eligible Choices, Supplemental Nutrition Assistance Program Employment and Training, Trade Adjustment Assistance, and WIOA-funded statewide program participants.

NLF: Boards must coordinate funding for ITAs with funding from other federal, state, and/or local sources, or private job training programs to assist the individual in obtaining training services, in accordance with the WIOA Guidelines.

NLF: Boards must ensure that WIOA funds are not used to pay training costs:

- for any portion or term of training for which the participant has signed a loan as part of financial aid; or
- that were paid by the participant (or another source).

NLF: Boards must ensure that participants and training providers are informed that WIOA training funds are not available unless an ITA is approved and has been issued to the training provider or eligible participant.

NLF: Boards must ensure that ITAs for training services are paid only to training providers for approved programs that are included on the statewide ETPL, except where out-of-state training programs are locally approved in accordance with WD Letter 12-19, issued May 2, 2019, and titled “Funding Training Programs Outside of Local Workforce Development Areas through Individual Training Accounts.”

ITA Limits

LF: Boards may impose limits on ITAs, such as limitations on dollar amounts or duration of an ITA.

NLF: If a Board imposes limits on ITAs, it must ensure that the limitations:

- are established by Board policies²;
- are described in the Board’s local plan as required by WIOA; and
- describe any exceptions to the limitations and the process for requesting an exception.

NLF: Boards must allow participants to select training that costs more than the maximum amount available for ITAs under a Board policy if other sources of funds are available to supplement the ITA, for example, Pell Grants, scholarships, and severance pay.

Training Contracts

NLF: Boards must be aware of the following exceptions that allow payments for WIOA training services for eligible individuals to be specified in contracts for services instead of ITAs:

- 1) OJT, customized training, incumbent worker training
- 2) With prior approval from TWC, as determined by the Board, there is an insufficient number of ETPs in the workforce area to make the ITA system effective
- 3) A training services program of demonstrated effectiveness offered in the workforce area by a community-based or other private organization, which serves special participant populations that face multiple barriers to employment. The criteria for determining demonstrated effectiveness may include:
 - a) the organization’s financial stability;
 - b) demonstrated performance in the delivery of services to individuals with barriers to employment, such as program completion rate; attainment of the skills, certificates, or degrees that the program is designed to provide;

² As required by TWC Integrity of the Texas Workforce System rule §802.1(f), and as detailed in WD Letter 10-07, Board members must take such actions in an open meeting.

- placement in unsubsidized employment after training; and retention in employment; and
- c) how the specific program relates to the workforce investment needs identified in the Board's local plan.
 - 4) The Board determines it would be most appropriate to contract with an institution of higher education or other provider of training services to facilitate the training of multiple individuals in Board-targeted occupations (or occupations that have been determined on a case-by-case basis to have a high potential for sustained demand and growth in the workforce area, based on sufficient and verifiable documentation), provided the contract does not limit consumer choice.
 - 5) The Board enters into a pay-for-performance contract that:
 - a) specifies a fixed amount to be paid to the service provider based on achievement of specified levels of performance for target populations within a defined time period; and
 - b) requires outcomes that must be independently validated prior to disbursement of funds.

NLF: The Board's local plan, as required by WIOA, must describe the process used in selecting providers under a contract for services. The Board must develop criteria to be used in determining demonstrated effectiveness, particularly as it applies to individuals with barriers to employment.

NLF: As with ITAs, Boards must ensure that training contracts:

- are used only with training providers that are appropriately licensed or regulated; and
- do not limit consumer choice.

NLF: Boards must ensure that training contracts—except contracts for OJT, customized training, and incumbent worker training—are linked to one of the following:

- Occupations that are on the Board's Target Occupations List or are on the Target Occupations List for another workforce area to which an eligible participant is willing to commute or relocate; or
- Occupations that have been determined on a case-by-case basis to have a high potential for sustained demand and growth in the workforce area, based on sufficient and verifiable documentation, in accordance with the Board's procedures and §841.34(b).

INQUIRIES:

Send inquiries regarding this WD Letter to wfpolicy.clarifications@twc.state.tx.us.

REFERENCES:

Workforce Innovation and Opportunity Act Regulations at 20 CFR Part 680
Subpart B—Training Services, Subpart C—Individual Training Accounts, and
Subpart D—Eligible Training Providers

Workforce Innovation and Opportunity Act of 2014, 20 Code of Federal
Regulations Part 680
Workforce Innovation and Opportunity Act Guidelines for Adults, Dislocated
Workers, and Youth
Texas Workforce Commission Integrity of the Texas Workforce System Rule
§802.1(f)
Texas Workforce Commission Workforce Investment Act Rule §841.43(b)
Texas Workforce Commission Financial Manual for Grants and Contracts,
Chapter 8: Cost Principles, General Allowability Criteria
WD Letter 12-19, issued May 2, 2019, and titled “Funding Training Programs
Outside of Local Workforce Development Areas through Individual Training
Accounts”
WD Letter 06-19, issued May 1, 2019, and titled “Incumbent Worker Training”
WD Letter 10-07, issued February 2, 2007, and titled “Adoption of Local
Workforce Development Board Policies in Open Meetings”