



**SOUTH FLORIDA WORKFORCE INVESTMENT BOARD**

**ECONOMIC DEVELOPMENT AND INDUSTRY SECTOR (EDIS) SUB-COMMITTEE MEETING**

**Monday, May 24, 2010  
2:00 PM**

Doubletree Miami Mart/Airport Hotel and Exhibition Center  
711 NW 72<sup>nd</sup> Avenue  
Salons A & B  
Miami, Florida 33126

**AGENDA**

1. Call to Order and Introductions
2. Information – Role and Responsibilities of EDIS Subcommittee
3. Information – Overview of Statutory and Regulatory Provisions Governing Training Vendors
4. Discussion – SFWIB Standardized Refund Policy
5. Discussion – SFWIB Training Vendor Performance Reporting Requirements
6. Discussion – SFWIB Training Vendor Performance Chargeback Policy

South Florida Workforce Investment Board is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.



2.

**SFWIB – Economic Development & Industry Sector (EDIS) Subcommittee**

***May 24, 2010***

**Role and Responsibilities of EDIS Subcommittee**

**Informational Item**

**BACKGROUND**

At its April 15, 2010, meeting, the SFWIB approved the creation of an EDIS Training Policy Subcommittee charged to review a Training Vendor Performance Chargeback Policy, a Standardized Refund Policy and Training Vendor Performance Reporting Requirements. The agenda item approving the Subcommittee is attached. Both the Chargeback and Standardized Refund policies were proffered and tabled at the EDIS Committee’s December 16, 2010, meeting.

The eight-member subcommittee is comprised of non-training provider SFWIB members: Carlos Arboleda (Chair), Bruce Brecheisen, Bill Diggs, Jackie Harder, Philip Ludwig, Thomas Roth, Monica Russo, and Holly Wiedman.

Three subject matter experts, who will assist the subcommittee in carrying out its duties, will participate at meetings via conference call; the experts are: (1) Michael Lynch, Senior Management Analyst, One-Stop and Program Support, Agency for Workforce Innovation; (2) Max Ketterman, Project Director, Commission for Independent Education, Florida Department of Education (DOE); and (3) John McNeely, State College Liaison, Career and Adult Education, DOE.

*Attachment*



5.A

**South Florida Workforce Investment Board**

*April 15, 2010*

**Approval to Create a SFWIB Training Policy Subcommittee**

**Recommendation**

The Executive Committee recommends that the SFWIB approve the creation of an EDIS Training Policy Subcommittee as outlined below.

**BACKGROUND**

Following a discussion at the EDIS Committee's December 16, 2009, meeting regarding a proffered Occupational Training Supply/Demand Policy, Training Vendor Performance Chargeback Policy and Standardized Refund Policy, the EDIS Committee Chair recommended the creation of an EDIS subcommittee comprised of EDIS Committee members who are non-training providers to evaluate data pertinent to SFWIB's education and training policies.

The Chair of the SFWIB approved the creation of an EDIS subcommittee charged with reviewing SFWIB's training related policies at the February 18, 2010, SFWIB meeting. At that meeting, Board members recommended that a public meeting be scheduled to further discuss the structure and duties of the subcommittee. Accordingly, the SFWIB Chair hosted a Sunshine Meeting on the training policy subcommittee at SFWIB headquarters on March 4, 2010.

At the Sunshine Meeting, the Chair determined that the EDIS subcommittee will review two of the proffered training policies written above – Training Vendor Performance Chargeback Policy and Standardized Refund Policy – as well as training vendor performance requirements found in SFWIB directives. The Occupational Training Supply/Demand Policy already passed, via motion at the SFWIB February 18, 2010 meeting. Agreeing with the recommendation of the EDIS Chair, the SFWIB Chair determined that the subcommittee will be comprised of EDIS Committee members who are non-training providers as well as former SFWIB Chair Mr. Margolis and Board member Mr. Carlos Arboleda.

Moreover, the SFWIB Chair requested that the SFWIB Executive Director request a policy subject matter expert from the Florida Department of Education to assist subcommittee members in carrying out their responsibilities. Lastly, the SFWIB Chair determined that the subcommittee will report its policy recommendations to the EDIS Committee.

The Executive Committee discussed this item at its March 23, 2010.



3.

**SFWIB - Economic Development & Industry  
Sector (EDIS) Subcommittee**

*May 24, 2010*

**Overview of Statutory and Regulatory  
Provisions Governing Training Vendors**

**Informational Item**

**BACKGROUND**

SFWIB's decisions and actions regarding training vendors are made in accord with applicable statutory and regulatory provisions. Those provisions are Section 122 – Identification of Eligible Providers of Training Services – of the Workforce Investment Act (Public Law 105-220-Aug. 7, 1998) and Subparts D – Individual Training Account – and E – Eligible Training Providers – of the Federal Register's Workforce Investment Act Final Rules (20 CFR Part 652 et al.).

*Attachments*

§ 663.320 and WIA section 134(d)(4)(B)); and

(e) For individuals whose services are provided through the adult funding stream, are determined eligible in accordance with the State and local priority system, if any, in effect for adults under WIA section 134(d)(4)(E) and § 663.600. (WIA sec. 134(d)(4)(A).)

**§ 663.320 What are the requirements for coordination of WIA training funds and other grant assistance?**

(a) WIA funding for training is limited to participants who:

(1) Are unable to obtain grant assistance from other sources to pay the costs of their training; or

(2) Require assistance beyond that available under grant assistance from other sources to pay the costs of such training. Program operators and training providers must coordinate funds available to pay for training as described in paragraphs (b) and (c) of this section.

(b) Program operators must coordinate training funds available and make funding arrangements with One-Stop partners and other entities to apply the provisions of paragraph (a) of this section. Training providers must consider the availability of other sources of grants to pay for training costs such as Welfare-to-Work, State-funded training funds, and Federal Pell Grants, so that WIA funds supplement other sources of training grants.

(c) A WIA participant may enroll in WIA-funded training while his/her application for a Pell Grant is pending as long as the One-Stop operator has made arrangements with the training provider and the WIA participant regarding allocation of the Pell Grant, if it is subsequently awarded. In that case, the training provider must reimburse the One-Stop operator the WIA funds used to underwrite the training for the amount the Pell Grant covers. Reimbursement is not required from the portion of Pell Grant assistance disbursed to the WIA participant for education-related expenses. (WIA sec. 134(d)(4)(B).)

**Subpart D—Individual Training Accounts**

**§ 663.400 How are training services provided?**

Except under the three conditions described in WIA section 134(d)(4)(G)(ii) and § 663.430(a), the Individual Training Account (ITA) is established for eligible individuals to finance training services. Local Boards may only provide training services under § 663.430 if they receive a waiver from the Governor and meet the requirements of 20 CFR 661.310 and

WIA section 117(f)(1). (WIA sec. 134(d)(4)(G).)

**§ 663.410 What is an Individual Training Account (ITA)?**

The ITA is established on behalf of a participant. WIA title I adult and dislocated workers purchase training services from eligible providers they select in consultation with the case manager. Payments from ITA's may be made in a variety of ways, including the electronic transfer of funds through financial institutions, vouchers, or other appropriate methods. Payments may also be made incrementally; through payment of a portion of the costs at different points in the training course. (WIA sec. 134(d)(4)(G).)

**§ 663.420 Can the duration and amount of ITA's be limited?**

(a) Yes, the State or Local Board may impose limits on ITA's, such as limitations on the dollar amount and/or duration.

(b) Limits to ITA's may be established in different ways:

(1) There may be a limit for an individual participant that is based on the needs identified in the individual employment plan; or

(2) There may be a policy decision by the State Board or Local Board to establish a range of amounts and/or a maximum amount applicable to all ITA's.

(c) Limitations established by State or Local Board policies must be described in the State or Local Plan, respectively, but should not be implemented in a manner that undermines the Act's requirement that training services are provided in a manner that maximizes customer choice in the selection of an eligible training provider. ITA limitations may provide for exceptions to the limitations in individual cases.

(d) An individual may select training that costs more than the maximum amount available for ITAs under a State or local policy when other sources of funds are available to supplement the ITA. These other sources may include: Pell Grants; scholarships; severance pay; and other sources.

**§ 663.430 Under what circumstances may mechanisms other than ITA's be used to provide training services?**

(a) Contracts for services may be used instead of ITA's only when one of the following three exceptions applies:

(1) When the services provided are on-the-job training (OJT) or customized training;

(2) When the Local Board determines that there are an insufficient number of eligible providers in the local area to accomplish the purpose of a system of

ITA's. The Local Plan must describe the process to be used in selecting the providers under a contract for services. This process must include a public comment period for interested providers of at least 30 days;

(3) When the Local Board determines that there is a training services program of demonstrated effectiveness offered in the area by a community-based organization (CBO) or another private organization to serve special participant populations that face multiple barriers to employment, as described in paragraph (b) in this section. The Local Board must develop criteria to be used in determining demonstrated effectiveness, particularly as it applies to the special participant population to be served. The criteria may include:

(i) Financial stability of the organization;

(ii) Demonstrated performance in the delivery of services to hard to serve participant populations through such means as program completion rate; attainment of the skills, certificates or degrees the program is designed to provide; placement after training in unsubsidized employment; and retention in employment; and

(iii) How the specific program relates to the workforce investment needs identified in the local plan.

(b) Under paragraph (a)(3) of this section, special participant populations that face multiple barriers to employment are populations of low-income individuals that are included in one or more of the following categories:

(1) Individuals with substantial language or cultural barriers;

(2) Offenders;

(3) Homeless individuals; and

(4) Other hard-to-serve populations as defined by the Governor.

**§ 663.440 What are the requirements for consumer choice?**

(a) Training services, whether under ITA's or under contract, must be provided in a manner that maximizes informed consumer choice in selecting an eligible provider.

(b) Each Local Board, through the One-Stop center, must make available to customers the State list of eligible providers required in WIA section 122(e). The list includes a description of the programs through which the providers may offer the training services, the information identifying eligible providers of on-the-job training and customized training required under WIA section 122(h) (where applicable), and the performance and cost information about eligible providers of training services described in WIA sections 122 (e) and (h).

(c) An individual who has been determined eligible for training services under § 663.310 may select a provider described in paragraph (b) of this section after consultation with a case manager. Unless the program has exhausted training funds for the program year, the operator must refer the individual to the selected provider, and establish an ITA for the individual to pay for training. For purposes of this paragraph, a referral may be carried out by providing a voucher or certificate to the individual to obtain the training.

(d) The cost of referral of an individual with an ITA to a training provider is paid by the applicable adult or dislocated worker program under title I of WIA.

### Subpart E—Eligible Training Providers

#### § 663.500 What is the purpose of this subpart?

The workforce investment system established under WIA emphasizes informed customer choice, system performance, and continuous improvement. The eligible provider process is part of the strategy for achieving these goals. Local Boards, in partnership with the State, identify training providers and programs whose performance qualifies them to receive WIA funds to train adults and dislocated workers. In order to maximize customer choice and assure that all significant population groups are served, States and local areas should administer the eligible provider process in a manner to assure that significant numbers of competent providers, offering a wide variety of training programs and occupational choices, are available to customers. After receiving core and intensive services and in consultation with case managers, eligible participants who need training use the list of these eligible providers to make an informed choice. The ability of providers to successfully perform, the procedures State and Local Boards use to establish eligibility, and the degree to which information, including performance information, on those providers is made available to customers eligible for training services, are key factors affecting the successful implementation of the Statewide workforce investment system. This subpart describes the process for determining eligible training providers.

#### § 663.505 What are eligible providers of training services?

(a) Eligible providers of training services are described in WIA section 122. They are those entities eligible to receive WIA title I-B funds to provide

training services to eligible adult and dislocated worker customers.

(b) In order to provide training services under WIA title I-B, a provider must meet the requirements of this subpart and WIA section 122.

(1) These requirements apply to the use of WIA title I adult and dislocated worker funds to provide training:

(i) To individuals using ITA's to access training through the eligible provider list; and

(ii) To individuals for training provided through the exceptions to ITA's described at § 663.430 (a)(2) and (a)(3).

(2) These requirements apply to all organizations providing training to adult and dislocated workers, including:

(i) Postsecondary educational institutions providing a program described in WIA section 122(a)(2)(A)(i);

(ii) Entities that carry out programs under the National Apprenticeship Act (29 U.S.C. 50 *et seq.*);

(iii) Other public or private providers of a program of training services described in WIA section 122(a)(2)(C);

(iv) Local Boards, if they meet the conditions of WIA section 117(f)(1); and

(v) Community-based organizations and other private organizations providing training under § 663.430.

(c) Provider eligibility procedures must be established by the Governor, as required by this subpart. Different procedures are described in WIA for determinations of "initial" and "subsequent" eligibility. Because the processes are different, they are discussed separately.

#### § 663.508 What is a "program of training services"?

A program of training services is one or more courses or classes, or a structured regimen, that upon successful completion, leads to:

(a) A certificate, an associate degree, baccalaureate degree, or

(b) The skills or competencies needed for a specific job or jobs, an occupational group, or generally, for many types of jobs or occupations, as recognized by employers and determined prior to training.

#### § 663.510 Who is responsible for managing the eligible provider process?

(a) The State and the Local Boards each have responsibilities for managing the eligible provider process.

(b) The Governor must establish eligibility criteria for certain providers to become initially eligible and must set minimum levels of performance for all providers to remain subsequently eligible.

(c) The Governor must designate a State agency (called the "designated State agency") to assist in carrying out WIA section 122. The designated State agency is responsible for:

(1) Developing and maintaining the State list of eligible providers and programs, which is comprised of lists submitted by Local Boards;

(2) Determining if programs meet performance levels, including verifying the accuracy of the information on the State list in consultation with the Local Boards, removing programs that do not meet program performance levels, and taking appropriate enforcement actions, against providers in the case of the intentional provision of inaccurate information, as described in WIA section 122(f)(1), and in the case of a substantial violation of the requirements of WIA, as described in WIA section 122(f)(2);

(3) Disseminating the State list, accompanied by performance and cost information relating to each provider, to One-Stop operators throughout the State.

(d) The Local Board must:

(1) Accept applications for initial eligibility from certain postsecondary institutions and entities providing apprenticeship training;

(2) Carry out procedures prescribed by the Governor to assist in determining the initial eligibility of other providers;

(3) Carry out procedures prescribed by the Governor to assist in determining the subsequent eligibility of all providers;

(4) Compile a local list of eligible providers, collect the performance and cost information and any other required information relating to providers;

(5) Submit the local list and information to the designated State agency;

(6) Ensure the dissemination and appropriate use of the State list through the local One-Stop system;

(7) Consult with the designated State agency in cases where termination of an eligible provider is contemplated because inaccurate information has been provided; and

(8) Work with the designated State agency in cases where the termination of an eligible provider is contemplated because of violations of the Act.

(e) The Local Board may:

(1) Make recommendations to the Governor on the procedures to be used in determining initial eligibility of certain providers;

(2) Increase the levels of performance required by the State for local providers to maintain subsequent eligibility;

(3) Require additional verifiable program-specific information from local

providers to maintain subsequent eligibility.

**§ 663.515 What is the process for initial determination of provider eligibility?**

(a) To be eligible to receive adult or dislocated worker training funds under title I of WIA, all providers must submit applications to the Local Boards in the areas in which they wish to provide services. The application must describe each program of training services to be offered.

(b) For programs eligible under title IV of the Higher Education Act and apprenticeship programs registered under the National Apprenticeship Act (NAA), and the providers or such programs, Local Boards determine the procedures to use in making an application. The procedures established by the Local Board must specify the timing, manner, and contents of the required application.

(c) For programs not eligible under title IV of the HEA or registered under the NAA, and for providers not eligible under title IV of the HEA or carrying out apprenticeship programs under NAA:

(1) The Governor must develop a procedure for use by Local Boards for determining the eligibility of other providers, after

(i) Soliciting and taking into consideration recommendations from Local Boards and providers of training services within the State;

(ii) Providing an opportunity for interested members of the public, including representatives of business and labor organizations, to submit comments on the procedure; and

(iii) Designating a specific time period for soliciting and considering the recommendations of Local Boards and provider, and for providing an opportunity for public comment.

(2) The procedure must be described in the State Plan.

(3)(i) The procedure must require that the provider must submit an application to the Local Board at such time and in such manner as may be required, which contains a description of the program of training services;

(ii) If the provider provides a program of training services on the date of application, the procedure must require that the application include an appropriate portion of the performance information and program cost information described in § 663.540, and that the program meet appropriate levels of performance;

(iii) If the provider does not provide a program of training services on that date, the procedure must require that the provider meet appropriate

requirements specified in the procedure. (WIA sec. 122(b)(2)(D).)

(d) The Local Board must include providers that meet the requirements of paragraphs (b) and (c) of this section on a local list and submit the list to the designated State agency. The State agency has 30 days to determine that the provider or its programs do not meet the requirements relating to the providers under paragraph (c) of this section. After the agency determines that the provider and its programs meet(s) the criteria for initial eligibility, or 30 days have elapsed, whichever occurs first, the provider and its programs are initially eligible. The programs and providers submitted under paragraph (b) of this section are initially eligible without State agency review. (WIA sec. 122(e).)

**§ 663.530 Is there a time limit on the period of initial eligibility for training providers?**

Yes, under WIA section 122(c)(5), the Governor must require training providers to submit performance information and meet performance levels annually in order to remain eligible providers. States may require that these performance requirements be met one year from the date that initial eligibility was determined, or may require all eligible providers to submit performance information by the same date each year. If the latter approach is adopted, the Governor may exempt eligible providers whose determination of initial eligibility occurs within six months of the date of submissions. The effect of this requirement is that no training provider may have a period of initial eligibility that exceeds eighteen months. In the limited circumstance when insufficient data is available, initial eligibility may be extended for a period of up to six additional months, if the Governor's procedures provide for such an extension.

**§ 663.535 What is the process for determining the subsequent eligibility of a provider?**

(a) The Governor must develop a procedure for the Local Board to use in determining the subsequent eligibility of all eligible training providers determined initially eligible under § 663.515 (b) and (c), after:

(1) Soliciting and taking into consideration recommendations from Local Boards and providers of training services within the State;

(2) Providing an opportunity for interested members of the public, including representatives of business and labor organizations, to submit comments on such procedure; and

(3) Designating a specific time period for soliciting and considering the

recommendations of Local Boards and providers, and for providing an opportunity for public comment.

(b) The procedure must be described in the State Plan.

(c) The procedure must require that:

(1) Providers annually submit performance and cost information as described at WIA section 122(d)(1) and (2), for each program of training services for which the provider has been determined to be eligible, in a time and manner determined by the Local Board;

(2) Providers and programs annually meet minimum performance levels described at WIA section 122(c)(6), as demonstrated utilizing UI quarterly wage records where appropriate.

(d) The program's performance information must meet the minimum acceptable levels established under paragraph (c)(2) of this section to remain eligible;

(e) Local Boards may require higher levels of performance for local programs than the levels specified in the procedures established by the Governor. (WIA sec. 122(c)(5) and (c)(6).)

(f) The State procedure must require Local Boards to take into consideration:

(1) The specific economic, geographic and demographic factors in the local areas in which providers seeking eligibility are located, and

(2) The characteristics of the populations served by programs seeking eligibility, including the demonstrated difficulties in serving these populations, where applicable.

(g) The Local Board retains those programs on the local list that meet the required performance levels and other elements of the State procedures and submits the list, accompanied by the performance and cost information, and any additional required information, to the designated State agency. If the designated State agency determines within 30 days from the receipt of the information that the program does not meet the performance levels established under paragraph (c)(2) of this section, the program may be removed from the list. A program retained on the local list and not removed by the designated State agency is considered an eligible program of training services.

**§ 663.540 What kind of performance and cost information is required for determinations of subsequent eligibility?**

(a) Eligible providers of training services must submit, at least annually, under procedures established by the Governor under § 663.535(c):

(1) Verifiable program-specific performance information, including:

(i) The information described in WIA section 122(d)(1)(A)(i) for all

individuals participating in the programs of training services, including individuals who are not receiving assistance under WIA section 134 and individuals who are receiving such assistance; and

(ii) The information described in WIA section 122(d)(1)(A)(ii) relating only to individuals receiving assistance under the WIA adult and dislocated worker program who are participating in the applicable program of training services; and

(2) Information on program costs (such as tuition and fees) for WIA participants in the program.

(b) Governors may require any additional verifiable performance information (such as the information described at WIA section 122(d)(2)) that the Governor determines to be appropriate to obtain subsequent eligibility, including information regarding all participating individuals as well as individuals receiving assistance under the WIA adult and dislocated worker program.

(c) Governors must establish procedures by which providers can demonstrate if the additional information required under paragraph (b) of this section imposes extraordinary costs on providers, or if providers experience extraordinary costs in the collection of information. If, through these procedures, providers demonstrate that they experience such extraordinary costs:

(1) The Governor or Local Board must provide access to cost-effective methods for the collection of the information; or

(2) The Governor must provide additional resources to assist providers in the collection of the information from funds for Statewide workforce investment activities reserved under WIA sections 128(a) and 133(a)(1).

(d) The Local Board and the designated State agency may accept program-specific performance information consistent with the requirements for eligibility under title IV of the Higher Education Act of 1965 from a provider for purposes of enabling the provider to fulfill the applicable requirements of this section, if the information is substantially similar to the information otherwise required under this section.

**§ 663.550 How is eligible provider information developed and maintained?**

(a) The designated State agency must maintain a list of all eligible training programs and providers in the State (the "State list").

(b) The State list is a compilation of the eligible programs and providers identified or retained by local areas and

that have not been removed under §§ 663.535(g) and 663.565.

(c) The State list must be accompanied by the performance and cost information contained in the local lists as required by § 663.535(e). (WIA sec. 122(e)(4)(A).)

**§ 663.555 How is the State list disseminated?**

(a) The designated State agency must disseminate the State list and accompanying performance and cost information to the One-Stop delivery systems within the State.

(b) The State list and information must be updated at least annually.

(c) The State list and accompanying information form the primary basis of the One-Stop consumer reports system that provides for informed customer choice. The list and information must be widely available, through the One-Stop delivery system, to customers seeking information on training outcomes, as well as participants in employment and training activities funded under WIA and other programs.

(1) The State list must be made available to individuals who have been determined eligible for training services under § 663.310.

(2) The State list must also be made available to customers whose training is supported by other One-Stop partners.

**§ 663.565 May an eligible training provider lose its eligibility?**

(a) Yes. A training provider must deliver results and provide accurate information in order to retain its status as an eligible training provider.

(b) If the provider's programs do not meet the established performance levels, the programs will be removed from the eligible provider list.

(1) A Local Board must determine, during the subsequent eligibility determination process, whether a provider's programs meet performance levels. If the program fails to meet such levels, the program must be removed from the local list. If all of the provider's programs fail to meet such levels, the provider must be removed from the local list.

(2) The designated State agency upon receipt of the performance information accompanying the local list, may remove programs from the State list if the agency determines the program failed to meet the levels of performance prescribed under § 663.535(c). If all of the provider's programs are determined to have failed to meet the levels, the designated State agency may remove the provider from the State list.

(3) Providers determined to have intentionally supplied inaccurate

information or to have subsequently violated any provision of title I of WIA or the WIA regulations, including 29 CFR part 37, may be removed from the list in accordance with the enforcement provisions of WIA section 122(f). A provider whose eligibility is terminated under these conditions is liable to repay all adult and dislocated worker training funds it received during the period of noncompliance.

(4) The Governor must establish appeal procedures for providers of training to appeal a denial of eligibility under this subpart according to the requirements of 20 CFR 667.640(b).

**§ 663.570 What is the consumer reports system?**

The consumer reports system, referred to in WIA as performance information, is the vehicle for informing the customers of the One-Stop delivery system about the performance of training providers and programs in the local area. It is built upon the State list of eligible providers and programs developed through the procedures described in WIA section 122 and this subpart. The consumer reports system must contain the information necessary for an adult or dislocated worker customer to fully understand the options available to him or her in choosing a program of training services. Such program-specific factors may include overall performance, performance for significant customer groups (including wage replacement rates for dislocated workers), performance of specific provider sites, current information on employment and wage trends and projections, and duration of training programs.

**§ 663.575 In what ways can a Local Board supplement the information available from the State list?**

(a) Local Boards may supplement the information available from the State list by providing customers with additional information to assist in supporting informed customer choice and the achievement of local performance measures (as described in WIA section 136).

(b) This additional information may include:

(1) Information on programs of training services that are linked to occupations in demand in the local area;

(2) Performance and cost information, including program-specific performance and cost information, for the local outlet(s) of multi-site eligible providers; and

(3) Other appropriate information related to the objectives of WIA, which may include the information described in § 663.570.

**§ 663.585 May individuals choose training providers located outside of the local area?**

Yes, individuals may choose any of the eligible providers and programs on the State list. A State may also establish a reciprocal agreement with another State(s) to permit providers of eligible training programs in each State to accept individual training accounts provided by the other State. (WIA secs. 122(e)(4) and (e)(5).)

**§ 663.590 May a community-based organization (CBO) be included on an eligible provider list?**

Yes, CBO's may apply and they and their programs may be determined eligible providers of training services, under WIA section 122 and this subpart. As eligible providers, CBO's provide training through ITA's and may also receive contracts for training special participant populations when the requirements of § 663.430 are met.

**§ 663.595 What requirements apply to providers of OJT and customized training?**

For OJT and customized training providers, One-Stop operators in a local area must collect such performance information as the Governor may require, determine whether the providers meet such performance criteria as the Governor may require, and disseminate a list of providers that have met such criteria, along with the relevant performance information about them, through the One-Stop delivery system. Providers determined to meet the criteria are considered to be identified as eligible providers of training services. These providers are not subject to the other requirements of WIA section 122 or this subpart.

**Subpart F—Priority and Special Populations****§ 663.600 What priority must be given to low-income adults and public assistance recipients served with adult funds under title I?**

(a) WIA states, in section 134(d)(4)(E), that in the event that funds allocated to a local area for adult employment and training activities are limited, priority for intensive and training services funded with title I adult funds must be given to recipients of public assistance and other low-income individuals in the local area.

(b) Since funding is generally limited, States and local areas must establish criteria by which local areas can determine the availability of funds and the process by which any priority will be applied under WIA section 134(d)(2)(E). Such criteria may include the availability of other funds for providing employment and training-

related services in the local area, the needs of the specific groups within the local area, and other appropriate factors.

(c) States and local areas must give priority for adult intensive and training services to recipients of public assistance and other low-income individuals, unless the local area has determined that funds are not limited under the criteria established under paragraph (b) of this section.

(d) The process for determining whether to apply the priority established under paragraph (b) of this section does not necessarily mean that only the recipients of public assistance and other low income individuals may receive WIA adult funded intensive and training services when funds are determined to be limited in a local area. The Local Board and the Governor may establish a process that gives priority for services to the recipients of public assistance and other low income individuals and that also serves other individuals meeting eligibility requirements.

**§ 663.610 Does the statutory priority for use of adult funds also apply to dislocated worker funds?**

No, the statutory priority applies to adult funds for intensive and training services only. Funds allocated for dislocated workers are not subject to this requirement.

**§ 663.620 How do the Welfare-to-Work program and the TANF program relate to the One-Stop delivery system?**

(a) The local Welfare-to-Work (WtW) program operator is a required partner in the One-Stop delivery system. 20 CFR part 662 describes the roles of such partners in the One-Stop delivery system and applies to the Welfare-to-Work program operator. WtW programs serve individuals who may also be served by the WIA programs and, through appropriate linkages and referrals, these customers will have access to a broader range of services through the cooperation of the WtW program in the One-Stop system. WtW participants, who are determined to be WIA eligible, and who need occupational skills training may be referred through the One-Stop system to receive WIA training, when WtW grant and other grant funds are not available in accordance with § 663.320(a). WIA participants who are also determined WtW eligible, may be referred to the WtW operator for job placement and other WtW assistance.

(b) The local TANF agency is specifically suggested under WIA as an additional partner in the One-Stop system. TANF recipients will have

access to more information about employment opportunities and services when the TANF agency participates in the One-Stop delivery system. The Governor and Local Board should encourage the TANF agency to become a One-Stop partner to improve the quality of services to the WtW and TANF-eligible populations. In addition, becoming a One-Stop partner will ensure that the TANF agency is represented on the Local Board and participates in developing workforce investment strategies that help cash assistance recipients secure lasting employment.

**§ 663.630 How does a displaced homemaker qualify for services under title I?**

Displaced homemakers may be eligible to receive assistance under title I in a variety of ways, including:

(a) Core services provided by the One-Stop partners through the One-Stop delivery system;

(b) Intensive or training services for which an individual qualifies as a dislocated worker/displaced homemaker if the requirements of this part are met;

(c) Intensive or training services for which an individual is eligible if the requirements of this part are met;

(d) Statewide employment and training projects conducted with reserve funds for innovative programs for displaced homemakers, as described in 20 CFR 665.210(f).

**§ 663.640 May an individual with a disability whose family does not meet income eligibility criteria under the Act be eligible for priority as a low-income adult?**

Yes, even if the family of an individual with a disability does not meet the income eligibility criteria, the individual with a disability is to be considered a low-income individual if the individual's own income:

(a) Meets the income criteria established in WIA section 101(25)(B); or

(b) Meets the income eligibility criteria for cash payments under any Federal, State or local public assistance program. (WIA sec. 101(25)(F).)

**Subpart G—On-the-Job Training (OJT) and Customized Training****§ 663.700 What are the requirements for on-the-job training (OJT)?**

(a) On-the-job training (OJT) is defined at WIA section 101(31). OJT is provided under a contract with an employer in the public, private non-profit, or private sector. Through the OJT contract, occupational training is provided for the WIA participant in



4.

**SFWIB - Economic Development & Industry Sector (EDIS) Subcommittee**

*May 24, 2010*

**SFWIB Standardized Refund Policy**

**Discussion Item**

**BACKGROUND**

SFWIB's current training voucher refund policy is to utilize the individual refund policies of its training vendors. Each training vendor's policy is published in its catalog and incorporated into the enrollment agreement voucher participants sign. This approach is consistent with the rules promulgated by the Commission for Independent Education, the State Board regulating nonpublic postsecondary educational institutions.

The Standardized Refund Policy provides training vendors a uniform approach for the disbursement of refunds to SFWIB's Support Services Unit. The proffered Policy explains the procedure to be followed for training vendors who apply either a pro-rated or drop/add refund formula. Moreover, the proffered Policy details the process training vendors must adhere to for entering withdrawal information into SFWIB's tracking system. The Standardized Refund Policy is attached.

*Attachments*

**M. REFUNDS**

The Training Vendor shall follow the Refund procedures set forth herein for SFWIB participants enrolled in the Training Vendor’s training program(s):

A. REFUND TYPES

1. PRO-RATED REFUND: For training vendors that currently use a pro-rata refund formula the following applies:

- a) In the event a SFWIB participant withdraws from the training within three (3) business days of signing the Training Vendor’ enrollment contract the Training Vendor shall refund all monies paid.
- b) In the event a SFWIB participant withdraws from the training after the third (3<sup>rd</sup>) business day of signing the enrollment contract but prior to the first day of class, the Training Vendor shall refund all monies paid with the **exception of the registration fee**,
- c) Where withdrawal occurs after classes have commenced, but prior to fifty percent (50%) completion of the training a pro-rated refund of tuition, **less the registration fee** is computed based on the following:
  - (1). Where the period of enrollment is computed on the basis of program-time elapsed, expressed in clock hours, the pro-rated refund of tuition computed on the number of hours completed to the total program hours.
  - (2). Where SFWIB pays for training per term, quarter, semester, the pro-rated refund of tuition is computed based on the number of hours completed per term, quarter or semester to the total hours per term, quarter, or semester.
  - (3). The guidelines listed below shall be followed by the Training Vendor when calculating the refund due SFWIB.

Percentage of Program Completion	Tuition Refund % Due to SFWIB
1 to 10%	99 - 90%
11 to 20%	89 - 80%
21 to 30%	79 - 70%
31 to 40%	69 - 60%
41 to 50%	59 - 50%
Over 50%	0%

After completing fifty percent (50%) or more of the program shall result in no refund, unless the school’s accreditation Board specifies the refund is greater than 50%.

TERMINATION DATE

For the refund computation purposes the last date of actual attendance by the participant shall be used.

3. DROP/ADD REFUNDS -For training vendors that currently use drop/add the following applies:

- (a) In the event a SFWIB participant withdraws from training within three (3) business days of signing the enrollment contract, the Training Vendor shall refund all monies paid by SFWIB.
- (b) In the event a SFWIB participant withdraws from training after the third (3<sup>rd</sup>) business day of signing the enrollment contract but prior to the first day of class, the training vendor shall refund all monies paid with the **exception of the registration fee**.
- (c) In the event a SFWIB participant withdraws from training on or before the first week of class (posted drop/add period) the training vendor will refund at 100%.
- (d) In the event a SFWIB participant withdraws after the posted drop/add period there is no refund due to SFWIB.
- (e) In the event a SFWIB participant is withdrawn from a class due to a class cancellation, SFWIB is entitled to a full refund.

#### B. REFUND PROCESS

- 1. The Training Vendor shall enter into SAMS the withdrawal date within five (5) days **of the SFWIB participant's termination from training** for the refund calculation.
- 2. Secondly, the training vendor shall notify in writing within five (5) days, the SFWIB participant's career advisor at their career center that the participant has **been terminated/withdrawn from school** and that a refund is or is not due SFWIB. The training vendor will complete the system generated drop/withdrawal form and indicate the reason for the drop/withdrawal and provide the refund calculation, reference Attachment 2, Electronic Drop/Withdrawal Form.
- 3. All refunds shall be submitted to SFWIB within thirty (30) days of the effective date of termination or withdrawal.



5.

**SFWIB - Economic Development & Industry Sector (EDIS) Subcommittee**

*May 24, 2010*

**SFWIB Training Vendor Performance Reporting Requirements**

**Discussion Item**

**BACKGROUND**

Federal statutory and regulatory provisions require Regional Workforce Boards to impose performance reporting requirements on providers of training services.

Section 122(d)(1)(A) of the Workforce Investment Act (Public Law 105-220-Aug. 7, 1998) mandates that for a training provider to be determined subsequently eligible to receive federal dollars it must submit verifiable program-specific performance information consisting of: (1) the program completion rates for all individuals participating in the applicable program conducted by the provider; (2) the percentage of all individuals participating in the applicable program who obtain unsubsidized employment, which may also include information specifying the percentage of the individuals who obtain unsubsidized employment in an occupation related to the program conducted; and (3) the wages at placement in employment of all individuals participating in the applicable program.

Furthermore, Section 663.565 – May an Eligible Training Provider Lose its Eligibility – of the Federal Register’s Workforce Investment Act Final Rules (20 CFR Part 652 et al.) explains that a training provider must deliver results and provide accurate information in order to retain its status as an eligible training provider. If the provider’s programs do not meet the established performance levels, the programs will be removed from the eligible provider list.

SFWIB’s current Individual Training Account (ITA) Performance Reporting Policy requires each training vendor to satisfy a 70 percent entered employment rate as well as a 70 percent training related placement rate. This performance requirement applies to each program and is based on exiters from each program.



6.

**SFWIB - Economic Development & Industry Sector (EDIS) Subcommittee**

*May 24, 2010*

**SFWIB Training Vendor Performance Chargeback Policy**

## **Discussion Item**

### **BACKGROUND**

A series of public meetings were held involving SFWIB staff and training vendors to review Individual Training Account (ITA) policies. Based on those meetings, both staff and vendors determined that a Performance Chargeback Policy is needed to promote accountability in meeting occupational training performance standards. The substance of the Performance Chargeback Policy is set forth below for the Subcommittee members to review and discuss.

The Chargeback Policy is based on each training vendor's program completion and placement performance rate of 70 percent. If a training vendor fails to meet the 70 percent completion and/or placement rate, that vendor's program will be placed on moratorium for a 12 month period. Moreover, where a training vendor's program does not meet the 70 percent placement rate standard, a 25 percent chargeback of tuition costs will be applied to those program participants who were not placed into gainful employment. If SFWIB does not receive the Performance Chargeback from a training vendor who provides multiple programs, all such programs offered but not placed on moratorium will be placed on hold pending SFWIB's receipt of the 25 percent Performance Chargeback. The tolling of the 12 month moratorium will commence upon SFWIB's receipt of the 25 percent chargeback.

The Board will provide the SFWIB Executive Director the right to place a failing program on a six month probation list whereupon economic conditions and labor market information will be assessed to determine whether the moratorium will be applied.

In drafting the Chargeback Policy, SFWIB staff crafted two options available to training vendors to meet the 25 percent chargeback requirement:

- Option One: the training vendor will issue a payment to SFWIB for the total chargeback amount due;
- Option Two: training vendors who are unable to comply with Option One will negotiate a credit based on the 25 percent chargeback amount owed and permit SFWIB to apply the credit to future SFWIB participants who enroll in the training vendor's program(s).