

# REPORT OF THE CHIEF LEGISLATIVE ANALYST

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DATE: June 13, 2016

TO: Honorable Members of the Economic Development Committee

FROM: Sharon M. Tso   
Chief Legislative Analyst

Council File No: 16-0660  
Assignment No: 16-06-0479

## **Workforce Development Board Annual Plan Program Year 2016-17 New Policies**

### SUMMARY

The City of Los Angeles Workforce Development Annual Plan (Annual Plan) is developed by the Economic and Workforce Development Department (EWDD) under the auspices of the Workforce Development Board (WDB), City Council and Mayor. The Annual Plan establishes the priorities, strategies and policies for the City's Workforce Development System, which provides workforce career and training services for adults, and education and employment support for youth. Furthermore, the Annual Plan details major funding sources, identifies initiatives that support the goals of the Mayor and WDB, and aligns with the federal Workforce Innovation and Opportunity Act (WIOA) and the California Unified State Plan. The Annual Plan serves as the framework for public policy and fiscal investments in labor exchange, career education and training services.

The WDB, along with the City Council and Mayor, are responsible for developing policy in response to federal legislation and current state law. As prescribed in the WDB/Local Elected Officials (LEO) Agreement, these bodies jointly provide policy guidance, governance and program oversight of the City of Los Angeles Workforce Development System. Through the development of the Annual Plan, these entities establish the service strategies, activities, and budget of the City's WDS for the forthcoming year.

For Program Year 2016-17, the City will receive approximately \$40 Million in WIOA Adult, Dislocated Worker, and Youth Formula funds from the State. The allocation for Rapid Response services has not been announced, however, the City is anticipating a funding level of \$1.3 Million based on Program year 2015-16. In addition to formula allocation funds, the City anticipates it will receive non-WIOA funds and competitive awards amounting to \$20.2 Million and carryover an amount of \$6 Million from Program Year 2015-16. Total funding for WDS activities is projected at approximately \$67 Million.

This report focuses on a review of new policies proposed by the WDB as a result of the new requirements of the WIOA. Under a separate cover, the City Administrative Officer will report on all budget recommendations contained in the Annual Plan. The four new policies proposed which are summarized in the Program Year 2016-17 Annual Plan are summarized below:

### Proposed New WDB Policies (Attached)

#### *1. Administrative Cost Limitation Policy*

Under this new policy, WorkSource and YouthSource Center operators will be required to track and report administrative costs, including the administrative component of indirect

costs recovered using an approved indirect cost rate, incurred during the contract period. The total administrative costs must not exceed 4 percent of the total allocation or the total final approved expenditures, net of any disallowed costs and/or unearned grant. Administrative costs in excess of the 4 percent limitation will be disallowed or subject to repayment.

The Administrative Cost Limitation Policy is attached to this report and lists the administrative costs that are subject to this policy.

2. *Incumbent Worker Training Policy*

Incumbent Worker Training is designed to assist employers to retain a skilled workforce or avert the need to lay off employees. An incumbent worker is one that is employed and has been employed for six months or more. Incumbent Worker training is conducted with a commitment by the employer to retain or avert the layoff of the incumbent employees trained.

The Incumbent Worker Training Policy provides the criteria for employers wishing to obtain incumbent worker training funds. Such employers will be required to pay for a significant cost of training for those participants. The minimum amount of the employer share in the incumbent worker training depends on the size of the employer as follows:

- At least 10 percent of the cost, for employers with 50 or less employees;
- At least 25 percent of the cost, for employers with 51 to 100 employees; and,
- At least 50 percent of the cost, for employers with more than 100 employees.

3. *Transitional Jobs Policy*

Transitional Jobs is a new category of work-based training that is allowed under WIOA. A Transitional Job is one that provides a time-limited work experience that is subsidized in the public, private or non-profit sectors for individuals with barriers to employment because of chronic unemployment or inconsistent work history. These jobs are designed to enable an individual to establish a work history, demonstrate work success, and develop the skills that lead to unsubsidized employment. WIOA allows up to 10 percent of Adult and Dislocated Worker funds to be used for transitional jobs for this population.

Individuals participating in transitional jobs or limited internships may receive work-based training payments.

Local Workforce Development Boards may use up to 10 percent of their combined total of adult and dislocated worker allotments for transitional jobs. The Transitional Jobs Policy mandates that Transitional jobs must be combined with comprehensive career services and supportive services such as transportation, clothing or day care.

4. *Green Economy Policy*

According to the Bureau of Labor Statistics (BLS), green jobs are:

- Jobs that produce goods or provide services that benefit the environment or conserve natural resources; or
- Jobs in which workers' duties involve making their establishment's production processes more environmentally friendly or use fewer natural resources.

This policy, if adopted by Council, will be the definition applied throughout the Workforce Development System to systematically capture training and employment data in the green economy and simplify reporting processes.

Consistent with Executive Directive No. 7, which was issued by Mayor Garcetti in 2015, this policy will require that all WorkSource and YouthSource Center operators use the definition of green jobs developed by the BLS to identify the number of green jobs and related training programs reported and tracked in the City of Los Angeles JobsLA system that links to the State's Cal Jobs system.

WIOA funded contractors will be required to report on whether participants have received "green training" and/or are employed in "green jobs."

The Annual Plan also contains a list of existing policies and a list of 23 policies that were revised for compliance with the WIOA. All of the existing, revised and proposed new policies can be found in the Program Year 2016-17 WDB Annual Plan and attached to this report. We recommend approval of these new policies inasmuch as they provide greater oversight of funds and are required by WIOA and/or Executive Directive No. 7.

A recommendation is included in this report instructing staff to monitor these policies and report on any impact incurred by the operators or the department as a result of the new policies.

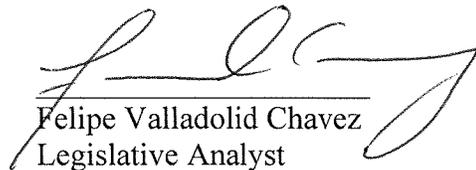
#### **FISCAL IMPACT**

There will be no impact to the General Fund resulting from the approval of this report.

#### **RECOMMENDATIONS**

That the City Council:

1. Approve and implement all revised and proposed new policies included in the Program Year 2016-2017 Workforce Development Board Annual Plan.
2. Instruct EWDD to monitor the proposed new policies and report on any impact incurred by the operators or the department as a result of the new policies.

  
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Attachment: WDB Annual Plan Program Year 2016-17 – New Policies

## Administrative Cost Limitation Policy

EFFECTIVE DATE: July 1, 2016

### POLICY STATEMENT

This Policy provides a definition and information related to Administrative Costs and limitations to their expenditure based on information provided by the Workforce Investment and Opportunity Act (WIOA) and EWDD policy.

### BACKGROUND

The costs of administration are expenditures incurred by State and Local Workforce Development Boards, Regions, direct grant recipients, as well as local grant recipients, local grant subrecipients, local fiscal agent, and one-stop operators that are associated with the functions described in the following paragraph and which are not related to the direct provision of workforce investment services. These costs can be both personnel and non-personnel and both direct and indirect.

The costs of administration are costs associated with performing the following functions:

- Performing the following overall general administrative functions and coordination of those functions under title I of WIOA:
  - Accounting, budgeting, financial and cash management functions;
  - Procurement and purchasing functions;
  - Property management functions;
  - Personnel management functions;
  - Payroll functions;
  - Coordinating the resolutions of findings arising from audits, reviews, investigations and incident reports;
  - Audit functions;
  - General legal services functions;
  - Developing systems and procedures, including information systems, required for these administrative functions; and
  - Fiscal agent responsibilities;
- Performing oversight and monitoring responsibilities related to WIOA administrative functions;
- Costs of goods and services required for administrative functions of the program, including goods and services such as rental or purchase of equipment, utilities, office supplies, postage, and rental and maintenance of office space;
- Travel costs incurred for official business in carrying out administrative activities or the overall management of the WIOA system; and

- Costs of the information systems related to administrative functions.

**PROCEDURES**

WorkSource and YouthSource Centers must track and report administrative costs, including the administrative component of indirect costs recovered using an approved indirect cost rate, incurred during the contract period. The total administrative costs must not exceed 4% of the total allocation or the total final approved expenditures, net of any disallowed costs and/or unearned grant. And administrative costs in excess of the 4% limitation will be disallowed or subject to repayment.

**REFERENCES**

NPRM §683.215

## **Incumbent Worker Training Policy**

**EFFECTIVE DATE:** July 1, 2016

### **POLICY STATEMENT**

This Policy provides a definition and information related to Incumbent Worker Training based on information provided by the Workforce Investment and Opportunity Act (WIOA).

### **BACKGROUND**

An “incumbent worker” is a worker who is:

- Employed,
- Meets the Fair Labor Standards Act (FLSA) requirements for an employer-employee relationship, and
- Has an established employment history with the employer for 6 months or more.

An incumbent worker does not necessarily have to meet the eligibility requirements for career and training services for adults and dislocated worker under WIOA.

Incumbent worker training is training:

- Designed to meet the special requirements of an employer (including a group of employers) to retain a skilled workforce or avert the need to lay off employees by assisting the workers in obtaining the skills necessary to retain employment, and
- Conducted with a commitment by the employer to retain or avert the layoff of the incumbent worker(s) trained.

Local areas may reserve up to 20 percent of their combined total of adult and dislocated allotments for incumbent worker training.

### **PROCEDURES**

To the greatest extent possible, incumbent worker training shall be provided utilizing California Employment Training Panel Funds: <http://www.etp.ca.gov/>

Before providing incumbent worker training with WIOA formula funds, local areas must submit a request to their Regional Advisor requesting access to the grant codes associated with incumbent worker training.

Incumbent Worker Training contracts with WIOA formula funds are subject to the approval of EWDD oversight. In order for an employer to be eligible to receive incumbent worker training funds, the following must be considered:

- The characteristics of the participants in the program;
- The relationship of the training to the competitiveness of a participant and the employer;
- The number of employees trained;

- Wages and benefits including post-training increases; and
- The existence of other training opportunities provided by the employer.

Employers are required to pay for a significant cost of training for those participants in incumbent worker training; this can be done through both cash and/or in-kind payments: The wages paid to participants while in training may be considered as a source of matching funds. The minimum amount of the employer share in the incumbent worker training depends on the size of the employer:

- At least 10 percent of the cost, for employers with 50 or fewer employees;
- At least 25 percent of the cost, for employers with 51 to 100 employees; and
- At least 50 percent of the cost, for employers with more than 100 employees.

## **REFERENCES**

NPRM §680.780 – 680.820; DOL TEGL 3-15

(New PY 16-17)

## **Transitional Jobs Policy (replaces Work Experience Policy)**

**EFFECTIVE DATE:** July 1, 2016

### **POLICY STATEMENT**

Transitional Jobs is a new category of work-based training that is allowed under WIOA. Transitional jobs are defined as time-limited work experiences that are subsidized, which are planned, structured learning experiences that take place in a workplace. They may be paid or unpaid, and located in the private, nonprofit, or public sectors. The City recommends that work experience be paid, be provided to individuals lacking a significant work history and be combined with Supportive Services. The goal of transitional jobs is to establish a work history for the individual that demonstrates success in the workplace, and develops the skills that lead into retention in unsubsidized employment. Unlike an OJT there is no assumption that the individual will be retained in their transitional job after the experience is over, transitional employment should be linked to achievement of a necessary skill level, limited in duration, combined with other activities, and based on a service strategy particular to each client. The Workforce Development System providers shall ensure that transitional jobs do not result in the loss of public benefits. The City currently has a standard Work Experience Training Agreement, and this document should be used for all WIOA-funded Transitional Jobs activities.

### **BACKGROUND**

Work Experience is designed to provide specific behavioral and occupational skills appropriate for the workplace. It primarily functions as a workplace-values activity, as opposed to a training activity, which is for the acquisition of specific occupational or job skills. WIOA allows up to 10% of Adult and Dislocated Worker funds to be used for transitional jobs for individuals with barriers to employment. Transitional employment, which was not easily provided under the previous law for the Adult system, will now add to the myriad of services provided by the system providers.

Work experience should be designed to promote the development of good work habits and basic work skills. When combined with other services, work experience should be provided concurrently or sequentially to these services to increase the basic education and/or occupational skills of the customer (as detailed in the adult Individual Employment Plan [IEP] or youth Individual Service Strategy [ISS]). Work experience may be combined with community service or conservation service corps programs.

Transitional Employment (TE) is an allowable activity. TE is designed to ensure that the people most in need of employment assistance transition to full participation in the labor market, is an allowable use of Work Experience. Labor standards apply to any work experience where there is an employee-employer relationship, as defined by the Fair Labor Standards Act.

## **PROCEDURES**

### **Orientation**

The contractor must conduct an Orientation to both the participant and the worksite training provider before the start of the Transitional Job. This should include a visit to the actual job site, a review of the tasks and/or skills to be gained during the training, a discussion of the wages and benefits to be paid to the participant, and a review of the other conditions within the Worksite Training Agreement, including reimbursement to the employer and the submission of progress reports by the employer.

### **Work-Based Training Payments**

Individuals participating in transitional jobs or limited internships may receive work-based training payments, which may be in the form of wages.

### **Benefits and Working Conditions**

In the development and conduct of work experience and internships, contractors must ensure that participants are not assigned to work for employers that do not comply with applicable labor laws, including wage and hour provisions, occupational health and safety provisions, and child labor laws. To the extent applicable, worker's compensation benefits should be available with respect to injuries suffered by participants while on the job.

Participants shall not be required to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous, or dangerous to the participant's health and/or safety. A participant employed or trained for inherently dangerous occupations shall be assigned to work in accordance with reasonable safety practices.

### **Monitoring Responsibilities**

Monthly on-site monitoring of the transitional job and internships is the responsibility of the contractor and shall be done by a person other than the designated staff who developed the transitional job/internship agreement. The contractor must ensure that the following requirements are met:

- Participant receives the training/services/skills as specified in the training outline/plan of the Worksite Training Agreement.
- Participant acknowledges training and services received as reported on the invoices submitted for training wages, if applicable.
- Participant and employer receive copies of the executed worksite training agreement prior to the start of the work experience.
- Worksite supervisor shall prepare and submit a progress report, which has been discussed and signed by the participant, at least once monthly, or as negotiated with the worksite supervisor by the contractor staff.

### **Completion of Transitional Employment**

Worksite training provider certifies in writing that the participant has completed the work experience and has acquired the skills necessary for competency in the field they were trained for.

The contractor shall issue a certificate of completion to the participant upon completion. A copy of the certificate shall be placed in the client file together with all the paperwork connected with the training.

### **REFERENCES**

DOLETA TEGL No. 3-14 (July 30, 2014)

U.S. DOL The Workforce Innovation and Opportunity Act Overview (July 22, 2014)

EWDD Work Experience Guidelines

(New PY 16-17)

## Working Definition of the Green Economy Policy

EFFECTIVE DATE: July 1, 2016

### BACKGROUND

In an effort to dispel confusion regarding the green economy and green jobs, the Bureau of Labor Statistics (BLS) developed a definition of green jobs for use in data collection in March 2010 (last modified in January 2013)<sup>1</sup>

Based on two components, BLS defines green jobs as either:

- Jobs in businesses that produce goods or provide services that benefit the Environment or conserve natural resources
- Jobs in which workers' duties involve making their establishment's production processes more environmentally friendly or use fewer natural resources.

An article in the January 2013 Monthly Labor Review published by BLS describes the methodology/ development of the definition.

Critical to the understanding of the green economy and green jobs, the definition will be the accepted definition throughout the City of Los Angeles Workforce Development system having been adopted by the BLS. This definition will be applied throughout the Workforce Development System to systematize the capture of training and employment data in the green economy and simplify reporting processes.

Additionally in April 2015, Mayor Garcetti released a Sustainable City pLAn that sets sustainability as a core value for the City and a course for economic and environmentally sustainability. As part of the pLAn strategy, the Mayor issued Executive Directive No. 7-Sustainable City pLAn, that orders all General Managers, Heads of Departments/Offices and Commissions to utilize the pLAn as a tool for strategic planning tool and program prioritization and to take ownership of associated components in their respective jurisdictions. In accordance with the pLAn and directive, the Workforce Development Board and EWDD work collaboratively with a variety of partners on the creation of green businesses and green jobs.<sup>2</sup>

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<sup>1</sup> BLS published the final definition in the September 21, 2010, Federal Register.

<sup>2</sup> City of Los Angeles Sustainability pLAn, page \_\_\_\_\_.

**POLICY**

This policy requires that all City of Los Angeles WorkSource and YouthSource Center operators use the definition of green jobs developed by the BLS to identify the number of green jobs and related training programs reported and tracked in the City of Los Angeles JobsLA system that links to the State’s Cal Jobs system. A copy of the definition is attached as part of the policy.

**PROCEDURE**

Consistent with the definition, all WIOA-funded contractors are required to report whether participants have received “green training” and/or are employed in green jobs. This data will be captured at the time of closure (exit) of participants via CalJobs through the JobsLA.org portal.

**REFERENCE**

January 2013 Monthly Labor Review

City of Los Angeles Sustainability pLAN

Executive Directive No. 7, issued by Mayor Garcetti on April 8, 2015

(New PY 16-17)