

THE GOVERNOR

Title 4—ADMINISTRATION

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 7]

[EXECUTIVE ORDER NO. 2023-17]

Commonwealth Workforce Transformation Program

July 31, 2023

Whereas, the federal Infrastructure Investment and Jobs Act of 2021, Pub.L. 117-58 (IIJA), and the federal Inflation Reduction Act of 2022, Pub.L. 117-169 (IRA), offer unique opportunities for the Commonwealth of Pennsylvania to accelerate critical investments in roads, bridges, energy, water, sewer, and transformative economic development projects, many of which require the adaptation of new technologies and techniques that improve the efficiency and effectiveness of our economy and enhance the prosperity and well-being of residents of the Commonwealth; and

Whereas, the Commonwealth's diverse workforce must grow and evolve to realize fully the benefits of both initiatives including the use of these federal investments to create good jobs with family-sustaining wages and equitable pathways to these good jobs for workers from all communities; and

Whereas, some of the greatest risks associated with executing these projects arise when companies cannot find experienced workers or are unwilling to take the financial or operational risks to train and hire new workers; and

Whereas, the IIJA and IRA call for States to build workforce programs in response to these challenges; and

Whereas, workforce programs that use evidence-based strategies such as sector-based training, registered apprenticeship programs, and supportive services are demonstrated to improve training, employment, and earnings outcomes; and

Whereas, the IIJA and IRA provide States with the flexibility to design and execute their own workforce programs using IIJA or IRA monies.

Now, Therefore, I, Josh Shapiro, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby establish the Commonwealth Workforce Transformation Program (hereinafter referred to as the "CWTP" or "Program") and instruct the Pennsylvania Department of Labor and Industry, in conjunction with the Office of the Budget and the Executive Director of Critical Investments, to develop and implement policies and procedures to govern the CWTP and allocate funding in accordance with the following:



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Fiscal Note: GOV-2023-17. Under section 612 of The Administrative Code of 1929 (71 P.S. § 232), (1) Federal Funds; (2) Implementing Year 2023-24 is \$400,000,000 over 5 years; (3) 1st Succeeding Year 2024-25 through 4th Succeeding year 2027-28 are (See above); 5th Succeeding Year 2028-29 is \$0; (4) 2022-23 Program—\$N/A; 2021-22 Program—\$N/A; 2020-21 Program—\$N/A; (7) Infrastructure Investment and Jobs Act of 2021 (IIJA); Inflation Reduction Act of 2022 (IRA); (8) recommends adoption. Operational and grant costs for the program will be incorporated into federal reimbursement.

Annex A
TITLE 4. ADMINISTRATION
PART I. GOVERNOR'S OFFICE
CHAPTER 7. MISCELLANEOUS PROVISIONS
Subchapter JJJ. COMMONWEALTH WORKFORCE
TRANSFORMATION PROGRAM

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§ 7.971. Purpose.

The CWTP shall coordinate the distribution of the IIJA and IRA moneys available for workforce development and OJT by means of a grant program distributed through the various State agencies that will receive Federal funding. The Department of Labor and Industry shall manage the CWTP with assistance from the Office of the Budget and in accordance with the IIJA, the IRA and the regulations or guidance issued by the relevant Federal agencies.

§ 7.972. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

CWTP—Commonwealth Workforce Transformation Program.

Covered expenses—Include, to the extent allowable under the IIJA and IRA:

(i) Wages paid directly to a new employee, including any bonuses or other monetary compensation reportable as “W-2” wages.

(ii) Payroll taxes paid by the eligible organization to Federal, State or local taxing authorities in conjunction with the new employee’s employment.

(iii) Direct costs associated with the OJT program incurred by the eligible organization during the first 6 months of employment for the new employee, including but not limited to any of the following:

(A) Registered pre-apprenticeship programs.

(B) Registered apprenticeship program costs.

(C) Costs associated with establishing a training program.

(D) Costs incurred for the use of a training facility.

(E) Supportive services and direct cash assistance that help individuals facing systemic barriers to employment to be able to participate in training and employment. Eligible supportive services include, but are not limited to, costs incurred for bona fide services and assistance provided to new employees for: housing; child and dependent care; work-related tools; work-related clothing or uniforms; educational testing; needs-related payments or emergency cash assistance; transportation and travel to or from training and work sites; reasonable accommodations; legal assistance; referrals to healthcare, mental health counseling or drug treatment; linkages to community services; application fees and other costs of apprenticeship or required pre-employment training, tests, or certifications; or financial counseling to the extent that eligible organizations demonstrate to the CWTP, within its discretion, that the expenses effectively recruit or retain workers who have traditionally faced systemic barriers to training and employment.

Eligible organization—A for-profit corporation, limited liability company, partnership, not-for-profit organization or public benefit corporation operating in this Commonwealth which meets any of the following criteria:

(i) Has received a contract or grant from an agency of the Commonwealth or by the Federal government under the IIJA or IRA for work occurring in this Commonwealth.

(ii) Is a subcontractor to an eligible organization that has received a contract or grant under the IIJA or IRA for work occurring in this Commonwealth.

(iii) Has received a tax credit from the United States Department of the Treasury made available under the IRA for a capital investment in excess of \$10 million within this Commonwealth.

IIJA—Federal Infrastructure Investment and Jobs Act of 2021 (Pub.L. No. 117-58).

IRA—Federal Inflation Reduction Act of 2022 (Pub.L. No. 117-169).

New employee—As this term will be or is defined in the CWTP guidelines issued under § 7.973 (relating to program).

OJT—On-the-job training.

§ 7.973. Program.

The CWTP shall establish guidelines that permit eligible organizations to apply for grants of up to \$40,000 per each new employee, which grant may not exceed \$400,000 in aggregate for all new employees hired by the eligible organization for each particular contract, to reimburse the eligible organization's payment of covered expenses.

§ 7.974. Duties of the Department of Labor and Industry.

The Department of Labor and Industry shall do all of the following:

(1) Manage the CWTP in alignment with the programmatic requirements of the IIJA, IRA and any relevant guidance issued by authorized Federal agencies.

(2) Implement policies for the overall CWTP, including the appropriate forms and documentation to be filed by eligible organizations to apply for the grants.

(3) Develop compliance and reporting tools for eligible organizations as required to implement the CWTP.

(4) Facilitate participation in the CWTP with companies, not-for-profit organizations, labor unions and worker organizations, and other employment or training service providers previously qualified to provide OJT services for other executive agencies.

(5) Prioritize awards to grant applicants that most effectively demonstrate the implementation of OJT programs encouraged by the IIJA and IRA.

§ 7.975. Duties of the Office of the Budget.

The Office of the Budget shall do all of the following:

(1) Establish a process to allocate portions of IIJA and IRA funding to the CWTP, so that eligible organizations may be reimbursed for covered expenses in accordance with relevant Federal reporting requirements.

(2) Seek reimbursement from the Federal government for up to a maximum amount of \$400 million over the 5 years of expected funding from the IIJA and IRA.

(3) Segregate these funds as might be required to allocate specific grants made to eligible organizations under the CWTP so that those grants match program requirements for individual Federal agencies.

(4) Provide for the overhead and operational costs that may be reasonably necessary for the execution of the CWTP, incorporating those costs for Federal reimbursement.

§ 7.976. Duties of the Department of Corrections.

The Department of Corrections shall do all of the following:

(1) Provide CWTP participants with information regarding reentry programs to ensure that participants are aware of the workforce opportunities that may be addressed by hiring individuals who are reentering the community after incarceration.

(2) Inform incarcerated individuals of the OJT opportunities that may be available to them under the CWTP.

(3) Coordinate with the Executive Director of the CWTP to ensure that the CWTP effectively connects employers in need of workers with previously incarcerated or soon-to-be-released incarcerated individuals who may be interested in workforce opportunities under the CWTP.

§ 7.977. Duties of contracting executive agencies.

Contracting executive agencies shall do all of the following:

(1) Include language in all solicitations issued using IIJA and IRA funding that describes the CWTP and how to qualify for funding under the CWTP.

(2) Request offerors to submit a description of any OJT programs that the offeror may have available to new employees that qualify for the CWTP as an eligible organization.

§ 7.978. Duties of fiscal offices for executive agencies receiving IIJA and IRA funding.

Fiscal offices for executive agencies receiving IIJA and IRA funding shall do all of the following:

(1) Allocate at least 3% of all funding received by the Commonwealth under the IIJA and IRA, including both formula awards and competitive grants as set forth in IIJA and IRA, where applicable, to be used to support the CWTP in accordance with IIJA and IRA.

(2) Ensure these allocations are designated on all fiscal reports and budgets submitted to Federal agencies for any and all programs funded under the IIJA and IRA.

(3) Report all of the following information to the Executive Director of Critical Investments or to the Executive Director's designee within 30 days of the issuance of any grant award letter for projects or grants funded by IIJA and IRA under the CWTP:

(i) The name and address of the recipient of the grant award letter.

(ii) The amount of funds issued under the grant award letter.

(iii) A brief description of the work to be completed under the grant award letter.

(iv) Whether the recipient indicated in the proposal an intent to apply for funding from the CWTP.

(4) Comply with guidance issued by the Office of the Budget or by the Executive Director of Critical Investments for the CWTP.

§ 7.979. Staff.

The Executive Director of Critical Investments shall administer, under the direction of the Office of the Budget, the CWTP until an Executive Director is appointed. The Secretary of the Department of Labor and Industry shall hire an Executive Director of the CWTP, who shall report to the Office of the Governor and to the Secretary of Labor and Industry and shall administer the CWTP thereafter. The Executive Director shall administer the CWTP until all Federal IIJA and IRA funding has been expended. The Executive Director shall hire all individuals as may be necessary to carry out the objectives of the CWTP and the purposes of this subchapter, subject to the approval of the Secretary of Labor and Industry and the Office of the Budget.

§ 7.980. Implementation.

This subchapter shall be implemented consistent with applicable law. This subchapter is not intended to, and does not create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the Commonwealth, its departments, agencies or entities, its officers, employees or agents, or any other persons.

§ 7.981. Effective date.

This subchapter shall take effect immediately.

§ 7.982. Termination date.

This subchapter shall remain in effect until amended or rescinded by the Governor.

[Pa.B. Doc. No. 23-1065. Filed for public inspection August 11, 2023, 9:00 a.m.]
