

**Incumbent worker training grants**  
Administrative rules

**DEPARTMENT OF LABOR AND INDUSTRY**

**CHAPTER 22**

**WORKFORCE SERVICES DIVISION**

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24.22.301 DEFINITIONS (1) "BEAR program" means a business expansion and retention program, as provided by 53-2-1216, MCA, and recognized pursuant to ARM 24.22.304.

(2) "Department" means the Department of Labor and Industry.

(3) "Employer" means, as provided by 53-2-1216, MCA, a business entity that:

(a) employs 20 or fewer employees in this state in one location but no more than 50 employees statewide; and

(b) is registered with the Secretary of State to conduct business as a sole proprietor, if required, or as a corporation, a partnership, a limited liability company, or an association.

(4) "MMEC" means the Montana Manufacturing Extension Center at Montana State University - Bozeman.

(5) "Recommending entity" means a recognized BEAR program, a SBDC, or the MMEC.

(6) "SBDC" means a small business development center operating as such pursuant to 13 CFR part 130. (History: 53-2-1220, MCA; IMP: 53-2-1215, 53-2-1216, MCA; NEW, 2010 MAR p. 913, eff. 4/16/2010.)

24.22.304 RECOGNITION OF A BEAR PROGRAM (1) In order to qualify as a recommending entity, a BEAR program must be recognized, as provided by 53-2-1216, MCA, by:

(a) the Governor's Office of Economic Development;

(b) the Department of Commerce; and

(c) the department.

(2) In order to be recognized, a BEAR program must:

(a) have been established and trained by the Montana Economic Developers Association; and

(b) have requested, in writing, recognition from any of the three agencies identified in (1).

(3) Written recognition of an eligible BEAR program by any of the three agencies identified in (1) constitutes recognition by all of the agencies. An agency denying a written request for recognition shall promptly explain the basis for the denial in writing.

(4) A recognized BEAR program may lose its recognition status if all three agencies unanimously agree that the BEAR program is no longer actively providing assistance to employers via the use of assessments, interviews, and surveys, or is otherwise failing to undertake its responsibilities as a recommending entity. The department will promptly communicate the loss of recognition to the BEAR program in writing, and explain the basis for the decision. (History: 53-2-1220, MCA; IMP: 53-2-1216, MCA; NEW, 2010 MAR p. 913, eff. 4/16/2010.)

24.22.307 GENERAL REQUIREMENTS (1) The department provides grant funding on a first-come, first-served basis, in accordance with the day of receipt of an application for funding by the department. Facsimile transmissions are accepted.

(2) The department shall review the expenditures of the incumbent worker training program throughout the fiscal year. One-fourth of the total annual grant funds shall be available during each quarter-year of the program. When funds allotted for a quarter are depleted before the end of the quarter, the department may suspend the grant program until the beginning of the next quarter and consider pending applications at the start of the next quarter. The department shall carry-over to the next quarter any funds not expended by the end of a quarter.

(3) The department shall accept only those grant applications and approval recommendations for incumbent worker training submitted to the department by a recommending entity. Only those grant applications that have been approved by a recommending entity are eligible for funding.

(4) The department shall verify the completeness of applications and ensure that each recommending entity has meaningfully evaluated each application in accordance with the incumbent worker training program grant award criteria, provided by 53-2-1218, MCA.

(5) The department shall enter into funding agreements for incumbent worker training with the employers upon grant application approval. Funding agreements must contain the following:

- (a) the terms of the grant;
  - (b) a schedule for direct payment to the eligible training provider, when applicable;
  - (c) a schedule for pre-payment or reimbursement of approved costs to the employer, when applicable; and
  - (d) the grant reporting requirements of the employer.
- (6) Grant funding may be made at a ratio of no more than four grant dollars for each one dollar of eligible matching share paid by the employer.
- (7) Matching share paid by the employer may include:
- (a) cost of tuition, fees for certified education, or skills-based training;
  - (b) employee wages for the time of actual training and travel time to and from training;
  - (c) direct employee benefits for actual training and travel time, excluding mandatory payroll taxes, premiums for workers compensation, and unemployment insurance;
  - (d) cost of educational materials, training supplies, or lab fees; and
  - (e) travel and lodging costs required for training, calculated at the current state of Montana rate. A minimum of 50 percent of out-of-state travel costs, if any, must be paid by the employer as matching share.

(8) Incumbent worker training grant funds may pay for:

- (a) certified education or skills-based training for permanent employees;
- (b) educational materials, training supplies, or lab fees; and
- (c) travel and lodging costs required for training, calculated at the current state of Montana reimbursement rate for state employees. Grant funds may pay for no more than 50 percent of out-of-state travel costs. (History: 53-2-1220, MCA; IMP: 53-2-1217, 53-2-1218, MCA; NEW, 2010 MAR p. 913, eff. 4/16/2010.)

24.22.311 GRANT APPLICATION PROCEDURES (1) The department shall make available the incumbent worker training grant application form, which a business entity and recommending entity must complete in conjunction for the purpose of applying for a grant award.

(2) A business entity may submit an application to a recommending entity. The recommending entity shall verify that the business entity is an employer that meets the definition of ARM 24.22.301 and that the information contained in the application is accurate and complete. The recommending entity shall evaluate the application based upon the incumbent worker training program grant award criteria provided in 53-2-1218, MCA, and makes a recommendation as to:

- (a) whether a grant should be awarded; and
- (b) the proposed amount of the grant award.

(3) Applications submitted to the department for grant funding must be signed and dated by both the employer and an authorized representative of the recommending entity.

(4) The recommending entity shall submit a cover letter to the department with each completed grant application. The cover letter must address, at a minimum, an analysis of the following:

- (a) the goals of the proposed training of incumbent workers;
- (b) the anticipated economic benefits from the training; and
- (c) the recommendation for a specific amount of grant funding. (History: 53-2-1220, MCA; IMP: 53-2-1217, 53-2-1218, MCA; NEW, 2010 MAR p. 913, eff. 4/16/2010.)

24.22.316 EVALUATION CRITERIA AND LIMITATIONS (1) The department shall award incumbent worker training grants to employers in accordance with the grant award criteria set forth by 53-2-1218, MCA, and the approval of a recommending entity.

(2) Continuing education that is a regular and customary requirement for maintenance of an employee's professional or occupational licensure does not qualify for incumbent worker training grant funding.

(3) The department shall award grant funding only to employers who have demonstrated that incumbent worker training is an integral part of a plan for worker retention, skill improvement, and wage enhancement.

(4) The department shall award incumbent worker training grant funding on a prospective basis only and may not award grant funding to an employer for training that occurred prior to the date upon which the employer and recommending entity signed the completed grant application. (History: 53-2-1220, MCA; IMP: 53-2-1217, 53-2-1218, MCA; NEW, 2010 MAR p. 913, eff. 4/16/2010.)

24.22.321 APPEAL PROCEDURE (1) An employer has the right to appeal when a recommending entity:

- (a) fails to take action on a grant application for more than 30 days after submission by the employer;
- (b) decides not to recommend grant funding for incumbent worker training; or
- (c) recommends less grant funding than requested.

(2) The employer first must seek informal administrative review of a funding recommendation by submitting a written request for review, a copy of the grant application, and a copy of the notice letter to the appropriate entity, as follows:

(a) funding decisions of a BEAR program must be submitted for review to the Montana Economic Development Association, MEDA-BEAR Working Group, 118 E. Seventh Street, Suite 2A, Anaconda, MT 59711; (406) 563-5259;

(b) funding decisions of a SBDC must be submitted for review to the Department of Commerce, SBDC Lead Center, Business Resources Division, Room 116, P.O. Box 200505, Helena, MT 59620-0505; (406) 841-2769; and

(c) funding decisions of MMEC must be submitted for review to the Montana Manufacturing Extension Center, P.O. Box 174255, Bozeman, MT 59717; (406) 994-3876.

(3) The entity providing administrative review shall evaluate the funding decision and send a written notice of findings and recommendations to the employer and the department within 30 days of receipt of the request for review.

(4) Within 20 days of the mailing of the notice of findings and recommendations by the entity providing administrative review, the department shall consider the findings and recommendations and make a final decision on the grant application and notify the parties in writing.

(5) Within 20 days of the mailing of the notice of the final decision of the department, the employer may submit a written request to the department for a contested case proceeding, pursuant to Title 2, chapter 4, MCA, to challenge a department action to deny a grant application or to provide less grant funding than requested.

(6) The employer bears the burden of demonstrating that the action by the department constitutes an abuse of discretion.

(7) A BEAR program which is aggrieved by a decision to either deny recognition or to remove recognition pursuant to ARM 24.22.304 may submit a written request to the department for a contested case proceeding, pursuant to Title 2, chapter 4, MCA, within 20 days of being notified of the decision to deny or remove recognition. (History: 2-4-201, 53-2-1220, MCA; IMP: 2-4-201, 53-2-1218, MCA; NEW, 2010 MAR p. 913, eff. 4/16/2010.)