

# HIRING EMPLOYEES AND CONTRACT LABOR

## Labor Guidelines and Workforce Assistance

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While every effort has been made to ensure the reliability of the information presented in this publication, the Arizona Commerce Authority cannot guarantee the accuracy of this information due to the fact that much of the information is created by external sources. Changes/updates brought to the attention of the Arizona Commerce Authority and verified will be corrected in future editions.

*Pima County One-Stop opened the Kino Veterans' Workforce Center, 2801 E. Ajo Way, Tucson, AZ to help military veterans find jobs and receive training, benefits and support services, as well as to help employers hire veterans.*





# LABOR GUIDELINES

*Before you can determine how to treat payments you make for services, you must first know the business relationship that exists between you and the person performing the services.*

The person performing the services may be:

- An independent contractor
- An employee

*In determining whether the person providing service is an employee or an independent contractor, all information that provides evidence of the degree of control and independence must be considered. For more information, visit the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) under "Small Businesses & Self-Employed," select "Independent Contractor (Self Employed) or Employee?"*

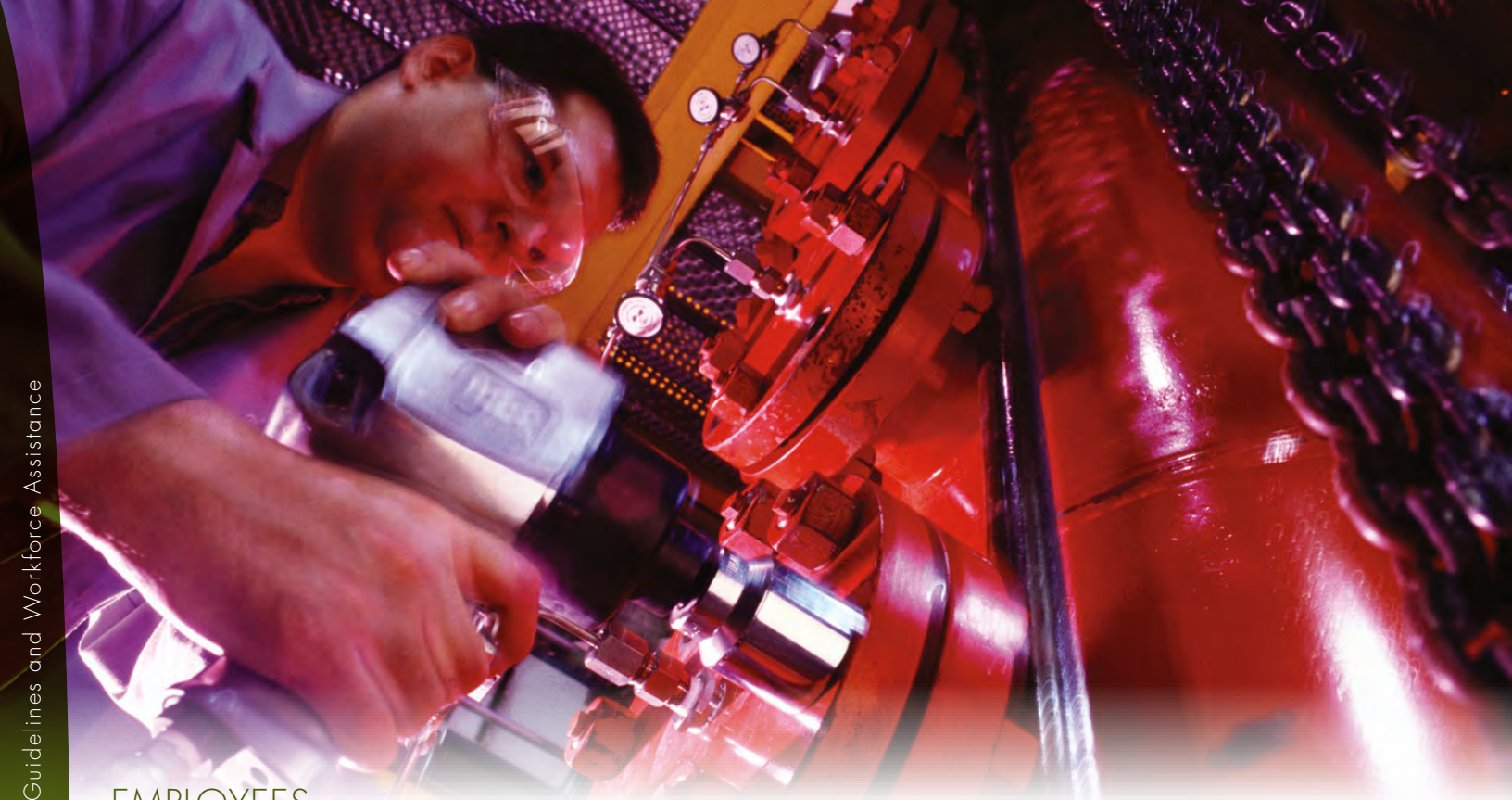
## CONTRACT LABOR

An individual is an independent contractor if the person for whom the services are performed has the right to control or direct only the result of the work, and not what will be accomplished and how it will be accomplished or the method of accomplishing the result.

The Independent Contractors section of the IRS website and Publication 15-A, "Employer's Supplemental Tax Guide" (Supplement to Publication 15 [Circular E], Employer's Tax Guide), [www.irs.gov/pub/irs-pdf/p15a.pdf](http://www.irs.gov/pub/irs-pdf/p15a.pdf), lists factors used to help determine the classification of independent contractors versus payroll employees.

If you need clarification of status of your employees and/or independent contractors, IRS Form SS-8, "Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding," [www.irs.gov/pub/irs-pdf/fss8.pdf](http://www.irs.gov/pub/irs-pdf/fss8.pdf), is available from the IRS.

When using contract labor, you must complete IRS Form 1099-MISC, "Miscellaneous Income" to report any income you paid to the individual. You must send a copy of this form to the recipient and to the IRS. Visit the IRS website for instructions on filing the 1099-MISC form at [www.irs.gov/pub/irs-pdf/f1099misc.pdf](http://www.irs.gov/pub/irs-pdf/f1099misc.pdf).



## EMPLOYEES

### FULL-TIME OR PART-TIME EMPLOYEES

If the person is classified as an employee you must have an Employer Identification Number (*EIN*). You may apply for an EIN online at [www.irs.gov/businesses](http://www.irs.gov/businesses), click “Employer ID Numbers” or you may obtain an EIN immediately by calling 800-829-4933, Monday through Friday, 7:30 a.m. to 5:30 p.m.

As an employer, your tax responsibilities include withholding, depositing, reporting and paying employment taxes. You must also give certain forms to your employees, and they must give certain forms to you.

In addition, there is information that you need to secure for your records and forms that you must complete:

- Eligibility to Work in the United States
- Employee’s Social Security Number (*SSN*)
- Federal Employee’s Withholding
- Arizona Employee Unemployment / Withholding
- Arizona New Hire Reporting

**Self-Employment Tax** is a tax consisting of Social Security and Medicare tax primarily for individuals who work for themselves. *It is similar to the Social Security and Medicare taxes withheld from the pay of most wage earners.*

This tax is in addition to any federal income tax you may pay on your net profits. You may determine self-employment tax (*SE Tax*) yourself using Schedule SE (*Form 1040*). Filing requirements are listed in the form’s instructions at [www.irs.gov/pub/irs-pdf/i1040.pdf](http://www.irs.gov/pub/irs-pdf/i1040.pdf).

For more information, see IRS’s Publication # 334, Tax Guide for Small Business (*For Individuals Who Use Schedule C or C-EZ*) at [www.irs.gov/publications/p334/index.html](http://www.irs.gov/publications/p334/index.html).

### ELIGIBILITY TO WORK IN THE UNITED STATES

All employers are required to verify the employment eligibility of new employees by completing the U.S. Citizenship and Immigration Services (*USCIS*) Employment Eligibility Verification (*Form I-9*). The Handbook for Employers, Instructions for Completing the Form I-9 (M-274) and are available on the USCIS website at [www.uscis.gov](http://www.uscis.gov), select “Working in the US.”

In addition, E-Verify is an Internet-based system that allows businesses to determine the eligibility of their employees to work in the United States. Use the free “E-Verify” program at [www.uscis.gov](http://www.uscis.gov) under “Verification.”

Employers may contact USCIS at 888-464-4218 with questions regarding the Form 1-9 process or E-Verify.

## EMPLOYEE'S SOCIAL SECURITY NUMBER (SSN)

As an employer, it is now your responsibility to report payroll information annually to the Social Security Administration and to your employees. Social Security and Medicare taxes pay for benefits that workers and families receive under the Federal Insurance Contributions Act (FICA). Social Security tax pays for benefits under the old-age, survivors and disability insurance part of FICA. Medicare tax pays for benefits under the hospital insurance part of FICA.

All employees must have a Social Security number. You are required to get each employee's name and Social Security number and to enter them on Form W-2. (This requirement also applies to resident and nonresident alien employees.)

Business Services Online (BSO), [www.ssa.gov/bsa](http://www.ssa.gov/bsa), enables organizations and authorized individuals to conduct business with, and submit confidential information to, the Social Security Administration. You must register to use this website. Registered users may request, activate and access various BSO services and functions including information on wage reporting.

You may speak to a Social Security representative between 7 a.m. and 7 p.m. Monday through Friday by calling 800-772-1213.

The **Social Security Administration (SSA)** offers Social Security verification and quick access to relevant forms and publications at [www.socialsecurity.gov/employer/ssnv.htm](http://www.socialsecurity.gov/employer/ssnv.htm).

*Note:* Any employee without a Social Security card should apply for one using "Application For A Social Security Card" (Form SS-5-FS) at [www.socialsecurity.gov/ssnumber](http://www.socialsecurity.gov/ssnumber).

**Arizona Department of Economic Security (ADES)  
Unemployment Insurance Information Division**  
4000 N. Central Avenue, Suite 500, Phoenix, AZ 85012  
602-771-6606; 877-600-2722  
Email: [uit.status@azdes.gov](mailto:uit.status@azdes.gov)  
[www.azdes.gov/uitax](http://www.azdes.gov/uitax)

400 W. Congress Street, Tucson, AZ 85701  
520-791-2722

## FEDERAL EMPLOYEE'S WITHHOLDING TAX

You generally must withhold federal income tax from your employee's wages. All employees must sign a completed and dated IRS Form W-4, "Employee's Withholding Allowance Certificate." To review publications and download the W-4 form, visit the IRS website at [www.irs.gov](http://www.irs.gov), select "Forms & Pubs," click "W-4." Contact the IRS at 800-829-1040 if you have additional questions.

*The **FirstStep Employment Law Advisor** is designed to help employers determine which federal employment laws administered by the U.S. Department of Labor (DOL) apply to their business or organization, what recordkeeping and reporting requirements they must comply with, and which posters they need to post. For more information, visit the DOL website at [www.dol.gov/elaws/firststep](http://www.dol.gov/elaws/firststep).*

## ARIZONA WITHHOLDING TAX

Arizona law requires employers to withhold Arizona income tax from wages for work done in Arizona.

All employees must sign a completed and dated Form A-4, "Arizona Withholding Percentage Election." To download Form A-4 and the employer's instructions, visit the Arizona Department of Revenue (DOR) website at [www.azdor.gov/Forms/Withholding.aspx](http://www.azdor.gov/Forms/Withholding.aspx).

In addition, the Arizona Employer's Handbook, [www.azdes.gov/main.aspx?menu=316&id=4185](http://www.azdes.gov/main.aspx?menu=316&id=4185), will help you understand the Employment Security Law of Arizona and the withholding provisions of the State Income Tax regulations.

## ARIZONA UNEMPLOYMENT TAX

In Arizona, most employers are required by law to pay unemployment taxes on the first \$7,000 in gross wages paid to each employee in a calendar year. For more information, you can review "A Guide to Arizona Unemployment Insurance Benefits" at [www.azdes.gov/InternetFiles/Pamphlets/pdf/pau-007-PD.pdf](http://www.azdes.gov/InternetFiles/Pamphlets/pdf/pau-007-PD.pdf).

*Employers paying wages or salaries to employees for services performed in the state must apply for a withholding number and unemployment number. The Arizona Joint Tax Application (JT-1) is used to register for your withholding/unemployment tax. Register online at [www.aztaxes.gov](http://www.aztaxes.gov) click "License a New Business" or download the form from the DOR website at [www.azdor.gov](http://www.azdor.gov), select "Forms," click "Withholding."*



## ARIZONA NEW HIRE REPORTING

Federal and state law requires employers to report all employees to the Arizona New Hire Reporting Center within 20 days of their hire date whether they are full-time, part-time or temporary.

For information on how to report electronically, visit <http://az-newhire.com> or call 888-282-2064, ext. 250. Staff members are available to answer questions, discuss reporting options, or provide a demonstration of the website.

## EMPLOYEE PAYROLL TAX

### FEDERAL INCOME TAX, SOCIAL SECURITY AND MEDICARE TAXES

You generally must withhold federal income tax from your employees' wages. You withhold part of Social Security and Medicare taxes from your employees' wages and you pay a matching amount yourself.

To figure how much to withhold from each wage payment, use the employee's Form W-4 and the methods described in Publication 15, "Employer's Tax Guide" and Publication 15-A, "Employer's Supplemental Tax Guide" at the IRS website, [www.irs.gov/businesses](http://www.irs.gov/businesses) click "Employment Taxes for Businesses." Call 800-829-3676 or 800-829-1040 if you have additional questions.

*For additional information, view the IRS Publication #505, "Tax Withholding and Estimated Tax" at [www.irs.gov/publications/p505/index.html](http://www.irs.gov/publications/p505/index.html).*

### FEDERAL UNEMPLOYMENT (FUTA) TAX

The Federal Unemployment Tax is part of the federal and state program under the Federal Unemployment Tax Act (FUTA) that pays unemployment compensation to workers who lose their jobs. You report and pay FUTA tax separately from Social Security and Medicare taxes and withheld income tax.

You pay FUTA tax only from your own funds. Employees do not pay this tax or have it withheld from their pay. You report FUTA taxes on the Form 940, "Employer's Annual Federal Unemployment (FUTA) Tax Return." For forms, visit the IRS website at [www.irs.gov](http://www.irs.gov), and in the search box type "Form 940 and Schedule A (Form 940)." For more information, contact the IRS at 800-829-1040.

### ARIZONA WITHHOLDING TAX

An employer must file a quarterly withholding tax return with the Arizona Department of Revenue (DOR) to report its Arizona withholding tax liability. Refer to the "Arizona Withholding Liability/Payment Schedule" section of the Form A1-QRT instructions, [www.azdor.gov/Forms/Withholding.aspx](http://www.azdor.gov/Forms/Withholding.aspx), for withholding payment schedule computation.

*Each payday, your employees must receive a statement from you telling them what deductions were made and how many dollars were taken out for each legal purpose. This may be presented in a variety of ways including on the check as a detachable portion or in the form of an envelope with the items printed and spaces for dollar deductions to be filled in.*

### ARIZONA'S WORKERS' COMPENSATION INSURANCE

Under Arizona law, it is mandatory for employers to secure workers' compensation insurance for their employees. Workers' compensation is a "no fault" system in which an injured employee is entitled to receive benefits for an industrial injury, no matter who caused the job-related accident. Employers are required to bear the entire cost of workers' compensation insurance.

Companies may choose to insure their employees by insuring with an authorized insurance carrier of the state or by qualifying as a self-insurer under the rules and regulations of the Industrial Commission. For a

The **Fair Labor Standards Act (FLSA)** is a federal law administered by the Wage and Hour Division of the U.S. Department of Labor. This law establishes minimum wage, overtime pay and child labor standards for employers. The Industrial Commission of Arizona has jurisdiction over all businesses in the state that are not covered by the FLSA. The Industrial Commission of Arizona also shares jurisdiction with the Wage and Hour Division when both federal and state laws are the same. Reprints of federal and Arizona's labor laws and additional information may be obtained on their websites:

#### **U.S. Department of Labor Wage and Hour Division**

Phoenix District Office  
230 N. First Avenue, Suite 402  
Phoenix, AZ 85003-1725  
602-514-7100  
[www.wagehour.dol.gov](http://www.wagehour.dol.gov)

Tucson District Office  
300 W. Congress Street, Room 4-H  
Tucson, AZ 85701  
520-670-4899

#### **Industrial Commission of Arizona**

800 W. Washington Street  
Phoenix, AZ 85007  
602-542-4515  
[www.ica.state.az.us/Labor/Labor\\_MinWag\\_main.aspx](http://www.ica.state.az.us/Labor/Labor_MinWag_main.aspx)

2675 E. Broadway  
Tucson, AZ 85716  
520-628-5459

#### **EMPLOYMENT RESOURCES**

**U.S. Equal Employment Opportunity Commission**  
[www.eeoc.gov](http://www.eeoc.gov)

**U.S. Department of Health and Human Services  
Administration of Children and Families  
Office of Child Support Enforcement**  
[www.acf.hhs.gov/programs/cse/index.html](http://www.acf.hhs.gov/programs/cse/index.html)

**Governor's Office of Equal Opportunity**  
<http://azgovernor.gov/eop>

**Arizona Department of Economic Security  
Division of Child Support Enforcement**  
[www.azdes.gov/dcse](http://www.azdes.gov/dcse)

listing of these companies, visit the Arizona Department of Insurance website at [www.azinsurance.gov](http://www.azinsurance.gov), select "Consumers" or contact the Consumer Affairs Division at 602-364-2499 or 800-325-2548.

The Industrial Commission of Arizona administers the Workers' Compensation Law. Visit their website at [www.ica.state.az.us/Claims/Claims\\_main.aspx](http://www.ica.state.az.us/Claims/Claims_main.aspx) or call 602-542-4661 or 520-628-4661 for more details.

#### **OCCUPATIONAL SAFETY**

The Arizona Division of Occupational Safety and Health (ADOSH) operates under an approved plan with the U.S. Department of Labor to retain jurisdiction over occupational safety and health issues within Arizona, excluding mining operations, Indian Reservations and federal employees. ADOSH provides a number of free forms, posters and brochures to assist its constituency with keeping workplaces safe and hazard-free. Download these items from their website at [www.ica.state.az.us/ADOSH/ADOSH\\_main.aspx](http://www.ica.state.az.us/ADOSH/ADOSH_main.aspx) or call 602-542-5795, 520-628-5478, or 855-268-5251.

For numerous resources and information designed specifically for smaller employers, including safety and health tools and publications, easy-to-follow guides for specific OSHA standards, and descriptions of benefits that small businesses receive from OSHA, visit their website at [www.osha.gov/dcsp/smallbusiness/index.html](http://www.osha.gov/dcsp/smallbusiness/index.html) or call 800-321-6742.



## REQUIREMENTS FOR POSTERS EMPLOYERS MUST DISPLAY

Federal and state laws require employers to display official labor and employment posters detailing federal and applicable state labor laws where employees can read them. Both federal agencies and state agencies provide posters to employers at no cost.

On the U.S. Department of Labor (DOL) website, [www.dol.gov/compliance/topics/posters.htm](http://www.dol.gov/compliance/topics/posters.htm), free electronic files are provided for printing copies of the federally required posters. To obtain posters or for more information about poster requirements or other compliance assistance, you may contact DOL at 866-487-2365.

Required posters under the jurisdiction of the Industrial Commission of Arizona (ICA) may be downloaded from their website at [www.ica.state.az.us/HomePage/HOME\\_Poster\\_Rules.aspx](http://www.ica.state.az.us/HomePage/HOME_Poster_Rules.aspx).

Information about required notices/posters under the jurisdiction of other state agencies may be accessed from the website, <http://az.gov/business/workposters.html>. Contact your city/town office for local smoking ordinances.

In addition, the requirements for posters you may need in your place of business are listed on the SBA website, [www.sba.gov/content/workplace-posters](http://www.sba.gov/content/workplace-posters), along with an explanation on compliance.

# Equal Employment Opportunity is THE LAW

Private Employers, State and Local Governments, Educational Institutions, Employment Agencies and Labor Organizations  
Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under Federal law from discrimination on the following bases:

**EMPLOYEE RIGHTS UNDER THE FAIR LABOR STANDARDS ACT**  
THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

**FEDERAL MINIMUM WAGE**  
**\$7.25 PER HOUR**  
BEGINNING JULY 24, 2009

**OVERTIME PAY** At least 1½ times your regular rate of pay for all hours worked over 40 in a workweek.

**CHILD LABOR** An employee must be at least 16 years old to work in most non-farm jobs and at least 18 to work in non-farm jobs declared hazardous by the Secretary of Labor.  
Youths 14 and 15 years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs under the following conditions:  
**No more than**  
• 3 hours on a school day or 18 hours in a school week;  
• 8 hours on a non-school day or 40 hours in a non-school week.  
Also, work may not begin before 7 a.m. or after 7 p.m., except from June 1 through Labor Day, when evening hours are extended to 9 p.m. Different rules apply in agricultural employment.

**TIP CREDIT** Employers of "tipped employees" must pay a cash wage of at least \$2.13 per hour if they claim a tip credit against their minimum wage obligation. If an employee's tips combined with the employer's cash wage of at least \$2.13 per hour do not equal the minimum hourly wage, the employer must make up the difference. Certain other conditions must also be met.

**ENFORCEMENT** The Department of Labor may recover back wages either administratively or through court action, for the employees that have been underpaid in violation of the law. Violations may result in civil or criminal action. Employers may be assessed civil money penalties of up to \$1,100 for each willful or repeated violation of the law.

## HEALTH CARE REFORM INFORMATION

The Patient Protection and Affordable Care Act was passed on March 23, 2010. Provisions in the new law become effective at varying dates through 2020. For a summary of key provisions, visit the website at [www.id.state.az.us/healthcarereform.html](http://www.id.state.az.us/healthcarereform.html).

In addition, through many chamber and association memberships, businesses have access to a variety of group insurance plans. See Chapter 8 for the contact information of the many chambers of commerce and associations in Arizona.

Healthcare Group of Arizona (HCG) is a state-sponsored health plan that offers benefit plan options for businesses with two to fifty employees. For more information, visit [www.hcgaz.gov](http://www.hcgaz.gov) or call 602-417-6755 or 800-247-2289.

## RETIREMENT PLANS

There are many benefits for you and your employees in setting up a retirement plan. For forms, publications, and information on how to start, maintain and administer a retirement plan, visit [www.retirementplans.irs.gov](http://www.retirementplans.irs.gov).

A SIMPLE (Savings Incentive Match Plan for Employees of Small Employers) IRA plan provides you and your employees with a simplified way to contribute toward retirement. It reduces taxes and, at the same time, attracts and retains quality employees. For more information, visit [www.dol.gov/ebsa/publications/simple.html](http://www.dol.gov/ebsa/publications/simple.html).

## EMPLOYEE COMPENSATION AND BENEFITS

Employers often compensate workers in ways beyond paying wages or a salary, such as by providing fringe benefits such as health insurance and retirement plans.

### INDIVIDUAL AND GROUP HEALTH INSURANCE

Whether you're an entrepreneur, home-based business, or small business with employees, selecting the correct individual or group health plan is important. Along with selecting your health plan, selecting an insurance carrier is also important. Look for an insurance company with a solid network of health care providers, timely claims service, and relatively stable premiums. The Arizona Department of Insurance website, [www.azinsurance.gov](http://www.azinsurance.gov), provides information on consumer publications, compared premiums, complaint ratios, health insurance resources and more.



# W O R K F O R C E   A S S I S T A N C E

## ARIZONA WORKFORCE CONNECTION

Arizona Workforce Connection is a statewide system of workforce development partners that provide value-added services at no cost to employers who seek access to skilled new hires and existing worker training resources.

The Governor’s Workforce Arizona Council (GWAC) presides over the workforce system and assists the Governor in the development of a State Plan that coordinates a statewide system of activities for Workforce. The GWAC also designates local workforce areas throughout the state.

There are more than a dozen designated Local Workforce Investment Areas throughout Arizona. They are typically found within each county. For more information, please visit [www.azcommerce.com/services/skilled-workforce](http://www.azcommerce.com/services/skilled-workforce).

Arizona employers profit from services tailored for unique business needs. Through a network of one-stop centers and online services, the Arizona Workforce Connection provides:

- Seamless Access to Workforce Resources
- Employee Recruitment
- Labor Market Information
- Job Training and Hiring Tax Credits
- Customized Training and Skills Upgrading
- Solutions to Common Employee Barriers
- Pre-Layoff Assistance

*The One-Stop Service Centers are located within each of Arizona’s counties. To quickly locate the One-Stop Service Center within your county, visit their website at [www.arizonaworkforceconnection.com/locations](http://www.arizonaworkforceconnection.com/locations).*

*Employers can post job openings using the Employment Services site on [www.azjobconnection.gov](http://www.azjobconnection.gov), select “Find Employees.”*

### WORKFORCE TRAINING PROGRAMS

For a list of approved Workforce Training programs and providers, visit [www.azjobconnection.gov](http://www.azjobconnection.gov), select “Resources.”

Contact your local One-Stop Service Center and/or community college for a listing of workforce training programs.





## ARIZONA JOB TRAINING PROGRAM

The Arizona Job Training Program is a job-specific reimbursable grant program that supports the design and delivery of customized training to meet specific needs of employers, create new jobs, and help increase the skill and wage levels of employees in Arizona.

This program can provide grant money to businesses for training new employees or to supplement training programs for incumbent employees. The program is streamlined, flexible and tailored to meet the specific needs of each employer.

Once awarded, an employer may take up to two years to complete the approved training program. As soon as the training is complete, the employer may apply for a new grant for additional job-specific training.

All applications are taken on a first-come, first-served basis, and grants are awarded based on the availability of funds at the time the application is approved. For application forms, or to receive additional information, visit the Arizona Commerce Authority website at [www.azcommerce.com/job-training](http://www.azcommerce.com/job-training) or call 602-845-1200.

## APPRENTICESHIP PROGRAM

Apprenticeship is a proven strategy that combines on-the-job training with related theoretical and practical classroom instruction to prepare exceptional workers for Arizona's industry. Registered apprenticeship is a training system that produces highly skilled workers that meet the demands of employers competing in a global economy.

Private and public sectors - individual employers, employer associations, or joint labor/management sponsors - operate registered apprenticeship programs. Program sponsors pay most of the training costs while also paying progressively increasing wages to apprentices as they gain skills. Registered apprenticeship programs may be competency-based or time-based depending on program sponsor needs.

Arizona has more than 100 registered apprenticeship programs currently providing training to 3,000 apprentices. For more information and a complete list of Arizona-registered apprenticeships, visit <http://azapprenticeship.com>.