

EMPLOYER GUIDELINES

September 2019



IATSE ENTERTAINMENT & EXHIBITION INDUSTRIES
TRAINING TRUST FUND
PROVIDING TRAINING OPPORTUNITIES FOR THE IATSE WORKFORCE

INTRODUCTION

The purpose of this Employer Guide is to help contributing signatory employers and/or their payors understand what is required to make contributions to the IATSE Entertainment and Exhibition Industries Training Trust Fund ("IATSE Training Trust Fund") pursuant to a collective bargaining agreement between the IATSE and/or one of its affiliate Local Unions and you, an entertainment or exhibition industry employer.

We have prepared this guidebook to outline policies and procedures regarding the remittance and collection of employer contributions on a "systematic, reasonable and diligent" basis. The Trustees are authorized and required to make these efforts to collect whatever is due and owing to the IATSE Training Trust Fund by the Employee Retirement Income Security Act of 1974, as amended (ERISA), as well as by the Trust Agreement, as amended.

This guidebook also serves to familiarize you with other aspects of the IATSE Training Trust Fund that may be pertinent to you as a signatory employer.

This summary is not intended to replace the terms of the Trust Agreement, to which you are bound, nor does it fully describe applicable policies. The Trustees reserve the right to amend any policy described herein at any time.

Board of Trustees
Revised September 2019

Approved by the Trustees of the IATSE Entertainment and Exhibition Industries Training Trust Fund – February 2014

Updated to reflect new policies and terms (2015-2019)

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GENERAL GUIDELINES FOR CONTRIBUTIONS

Employers must make contributions to the IATSE Training Trust Fund if they are signatory to a Collective Bargaining Agreement (“CBA”) between the IATSE or one of its affiliated Local Unions that obligates them to make such contributions and that has been accepted by the Trustees of the IATSE Training Trust Fund. Employers may utilize the service of a payroll company to act as its payor, but such engagement does not diminish the obligation of the signatory employer.

Employers are contractually obligated to pay a certain percentage of each payroll, or a specific amount per hour worked, or any other rate as specified in the CBA. Please refer to your most recent Collective Bargaining Agreement, Term Letter of Agreement or notice from the IATSE Training Trust Fund for your contribution rate.

Employers are required to remit contributions no later than the 15th day of the month for work performed in the preceding month or the date specified in the CBA if different from the fifteenth.

HOW TO REPORT CONTRIBUTIONS

Remittance reports **must** accompany contributions to be properly credited. We ask that all reports be clearly printed or typed in order to facilitate proper processing. Report forms are available through the IATSE Training Trust Fund website at www.iatsetrainingtrust.org or by request via email to AR@iatsetrainingtrust.org.

Employers must report the gross wages, the number of hours worked, or the work unit in accordance with the rate specified in the CBA. The remittance report **must** be sent for the reported period along with the payment and include the following information:

- 1. Production Company Name**
- 2. Production (Project) Title**
- 3. Payroll Company Invoice/Reference Number**
- 4. Agreement Name Covering the Contribution**
- 5. Start and End Date of Work Period Being Reported**
- 6. The Union (Local or IATSE) that is party to the CBA**
- 7. Employee Name and Social Security Number**
- 8. Work Units (hours, days, weeks, gross wages, etc.) in accordance with the rate specified in the CBA**
- 9. Rate (as per your agreement)**
- 10. Amount Paid**

If a complete remittance report is not included along with payment, it may

delay the processing of your payment and subject the employer to interest, liquidated damages and late fees.

USE OF PAYROLL COMPANIES

IATSE Training Trust Fund payments are not automatically paid by an employer's payroll company as a part of fringe. However, employers may choose to have a payroll company handle payments to the IATSE Training Trust Fund. An employer who chooses this option will need to contact their payroll company directly to make payment arrangements. Employers are responsible for notifying their payroll company of all payment information, forms, rates, materials and reporting requirements pertaining to the IATSE Training Trust Fund to ensure their payments are set up correctly. Employers are responsible for prompt and accurate payments made to the IATSE Training Trust Fund by payroll companies. The IATSE Training Trust Fund does not contact payroll companies to set up payment arrangements on behalf of employers.

IDENTIFICATION OF EMPLOYERS OBLIGATED TO CONTRIBUTE

A. IATSE Training Trust Fund Office Notification by Union

The IATSE Training Trust Fund shall ask the Union to promptly notify the TTF with the names of employers required to contribute, including the address and telephone number of each employer and the responsible parties to contact.

The TTF shall also ask the Union to promptly notify the TTF whether the contributing employer is a corporation, a partnership, a limited liability company or an individual proprietorship and notify it of the names of the principal officers of the business entity as determined from the CBA and/or Trust Acceptance Document (TAD), correspondence, checks, etc.

B. The IATSE Training Trust Fund shall ask the Union to promptly notify the TTF office if any change occurs in the CBA and/or TAD regarding an employer's obligation to contribute. This includes among other things: if there is a change of rate; if the employer goes out of business, closes temporarily or moves out of jurisdiction; if the CBA and/or TAD, as it may be amended, ceases to require further contributions to the IATSE Training Trust Fund; or if the Union has a reason to believe any of such actions will occur.

NULL REPORTING

Employers with work performed in amphitheaters, arenas, convention centers, exhibition halls, parks, stadiums, theatres, or other similar venues, are required to file a report each month on the form established by the Trust regardless of whether the employer has employed any employees or not. The “null” report should confirm “*no work was performed under the terms of the CBA*” for the monthly period. Employers who fail to submit a null report to the TTF on or before the due date may receive a delinquency notice and/or be assessed liquidated damages and interest.

PAYMENT ADDRESS

Contribution checks should be made payable to **IATSE Training Trust Fund** and mailed, along with the appropriate payroll reports, to:

IATSE Training Trust Fund
PO Box 51317
Los Angeles, CA 90051-5617

Contributions will be credited based on the date such contributions are *received*, regardless of the due date.

DELINQUENCY AND COLLECTIONS

The Employee Retirement and Income Security Act of 1974, as amended (“ERISA”), authorizes the IATSE Training Trust Fund to bring suit in Federal court to collect delinquent or unpaid contributions, together with interest, damages, attorney’s fees and costs.

It is the policy established by the Trustees of the IATSE Training Trust Fund to collect contributions from those signatory employers who agree to the terms of the Trust Agreement. Toward that end the IATSE Training Trust Fund has established a procedure for monitoring contributions and delinquencies. The Trustees reserve their right to proceed on a case-by-case basis regarding any matters arising pursuant to this policy including but not limited to litigation, compromise or settlement of claims.

The IATSE Training Trust Fund protocol for collections is as follows:

- All contracts signed by the IATSE and/or one of its affiliated Local Unions that contain provisions for contributions to the IATSE Training Trust Fund are entered into a database.
- Signatory employers are sent a “New Employer Packet” which contains the Trust Agreement and Amendments, information about the IATSE Training Trust Fund, and information on reporting and payment of contributions along with a remittal form.

- Employer payments are recorded on an on-going basis.
- The Union may be contacted and asked to make an initial phone call to the delinquent employer reminding them to pay or the IATSE Training Trust Fund will initiate the collections process. In the event the Union is not able to make these calls, reminder calls may be made by the IATSE Training Trust Fund. At this time, any information pertinent to the delinquency is relayed to the IATSE Training Trust Fund.
- If a contribution is not remitted in a timely manner, a letter will be sent advising the employer of their delinquency and must remit the contribution as well as liquidated damages and interest on late contributions. This constitutes the first notice of a delinquency.
- Thereafter, on a timely basis, the IATSE Training Trust Fund will send a Second Notice.
- Absent a response to the Second Notice, the matter may be turned over to Trust Counsel.

At that point, the Trustees have the authority to institute arbitration proceedings, and recover not only all late contributions, liquidated damages, and interest, but also the IATSE Training Trust Fund's attorneys' fees and any additional costs.

If employers make a NSF payment to the IATSE Training Trust Fund, the TTF reserves the right to collect any NSF bank fees charged for the NSF deposit.

While these are the established procedures, the Trustees reserve the right to apply them on a case-by-case basis to insure their fiduciary duty is fully carried out.

LIQUIDATED DAMAGES AND INTEREST

Liquidated damages in the amount of \$20 or 10% of the payment due, whichever is greater, will become due and payable to the IATSE Training Trust Fund upon the day immediately following the date on which the contributions become delinquent. Said delinquent contribution or contributions shall be increased by the amount of said liquidated damages and such contributions, as thus increased, shall be the payments specified in the Trust Agreement and the Training Plan pursuant to ERISA as required to be made to the IATSE Training Trust Fund. In addition, interest will be added as required by ERISA, and the employer will be obligated to pay all interest incurred. The Trustees shall set the rate of interest to be consistent with IRS interest rates.

The amounts should be calculated, applied to the base contribution and noted on the remittance form in order to have these additional

amounts credited to your account.

If you are a signatory employer but have not started production within the 30 days of becoming a signatory, please call or email the IATSE Training Trust Fund to explain the situation in order to avoid the collections process being triggered. The IATSE Training Trust Fund can be reached at (818) 738-1802 or AR@iatsetrainingtrust.org.

TRUST DOCUMENTS AND POLICIES

Upon becoming a signatory employer, employers will receive a packet from the IATSE Training Trust Fund that includes the remittance form, IRS letter, notice to employers about the TTF and a notice to post to all employees about the IATSE Training Trust Fund.

For all inquiries about any of the employer packet documents including the Trust Agreement, Trust Agreement amendments, Delivery of Benefits or other such policy documents, please contact AR@iatsetrainingtrust.org or call (818) 738-1802.

WHAT EMPLOYER CONTRIBUTIONS COVER

Employer contributions allows eligible IATSE Training Trust Fund beneficiaries to avail themselves of IATSE Training Trust Fund approved/sponsored or supported programs, courses and reimbursements. Beneficiaries are individuals working in a craft or classification represented by the IATSE, or affiliated unions, under its various collective bargaining agreements. IATSE Training Trust Fund programs and courses include calendared courses, supported courses, approved exam reimbursement and technical assistance/capacity building programs. More information about the IATSE Training Trust Fund programs is available at www.iatsetrainingtrust.org.

WHAT EMPLOYER CONTRIBUTIONS DO NOT COVER

The IATSE Training Trust Fund cannot pay for employer mandated training. However, an employer may decide to contract with the IATSE Training Trust Fund to provide a mandated training at a cost to be determined by the IATSE Training Trust Fund. In such cases, the IATSE Training Trust Fund will negotiate an appropriate rate of reimbursement depending upon the nature of the course work and the number of beneficiaries taking the class. This cost is in addition to any other amounts the employer has already paid or is scheduled to pay into the IATSE Training Trust Fund. Mandated trainings are expected to be offered "on the clock" subject to union-employer negotiations and the employer should expect to provide the location and equipment for the course.

POLICY REGARDING A REFUND OF CONTRIBUTIONS

Section 403(c)(l) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), generally provides that the assets of an employee benefit plan *“shall never inure to the benefit of any employer and shall be held for the exclusive purposes of providing benefits to participants in the plan and their beneficiaries and defraying reasonable expenses of administering the plan.”* Under an exception to the “exclusive purpose” rule which is set forth in Section 403(c)(2)(A)(ii) of ERISA, the Trustees of a multi-employer plan are not prohibited from returning to an employer the contributions it made under a good faith mistake of fact or law, as long as the return of contributions is made within six (6) months of the Trustees’ determination that the contributions were made by such mistake. The Trustees of the IATSE Training Trust Fund are authorized to return mistaken contributions pursuant to the Trust Agreement governing the TTF, to the extent permissible by law.

The Trustees, therefore, promulgate and adopt these guidelines, recognizing that the refund of contributions made by a good faith mistake of fact or law is a question properly addressed to the Trustees’ judgment as fiduciaries to the TTF. To this end, the Trustees acknowledge that they have a duty to treat contributions that have been made as a result of a good faith mistake of fact or law in a manner that is “solely in the interest of participants and beneficiaries” and in a prudent manner, as required by Section 404 of ERISA. The Trustees further acknowledge that it is prudent to treat contributing employers in a fair and businesslike manner. Fairness to an employer who has made a mistaken contribution, in all cases, must be balanced against the effect of returning such contribution upon the TTF which received the contribution and its participants and beneficiaries.

When the Trustees have determined that contributions have been made by mistake of fact or law, and are therefore eligible to be returned to the contributing employer, absent extraordinary circumstances, no contributions to the TTF may be returned to such employer more than twelve (12) months after the contributions have been received, notwithstanding the fact that the contributions were found to be made by a mistake of fact or law. No refund of mistakenly made contributions shall be made except to the extent that such refund complies with the requirements of Section 403(c)(2)(A)(ii) of ERISA.

The Trustees, or their duly authorized representative, shall have the sole and exclusive authority to determine whether a contribution has been made by a good faith mistake of fact or law and shall have full discretion in applying the IATSE Training Trust Fund’s rules regarding

the return of mistaken contributions. If the Trustees discover or otherwise determine that an employer has submitted false, fraudulent, or unreliable evidence in support of its claim for a refund, they may, in their sole and absolute discretion, determine whether, and in what amount, if any, a refund shall be issued.

In no event, absent extraordinary circumstances, shall contributions be returned unless the employer requests a refund (and provides sufficient documentation to substantiate such request) within 12 months after the TTF's receipt of such contributions, notwithstanding the fact that the Trustees determined that the contributions were made by mistake of fact or law.

No refund of mistaken contributions shall be made if, in the discretion of the Trustees, after analysis of the TTF's financial condition, investments, and funding methods, a refund of contributions would prejudice the financial position of the TTF or jeopardize its actuarial soundness.

Any interest or investment income earned on mistaken contributions shall not be returned to an employer. Any investment losses may be deducted before a refund of mistaken contributions.

Contributions may only be returned, in accordance with these guidelines, within six (6) months of the Trustees' determination that the contributions were made as a result of a good faith mistake of fact or law.

No refunds will be issued if the refund request amount is \$10.00 or less.

The IATSE Training Trust Fund will charge an administrative processing fee on all refunds. The charge will be \$10.00 or 10% of the amount being refunded, whichever is greater. This fee will automatically be deducted before the refund is issued to an employer. Should the actual expenses incurred by the TTF to verify and process the refund exceed the applicable administrative processing fee, the Trustees reserve the right to deduct such expenses from any refund including, but not limited to, attorneys' fees and costs, accounting, auditing, actuarial and other professional fees or costs, or other administrative expenses.

The Trustees further note that an employer that believes that it is entitled to a refund of contributions must promptly notify the TTF of its error in a written request, including the amount, date, and check number of the payment and a copy of the contribution report submitted with the original payment. A full explanation of the occurrence, detailing the facts of the original report(s) in which

the error was made, is essential for proper processing. An employer must submit a separate refund request for each production/project/agreement. In no cases are employers permitted to take a credit on a payroll report.

Employers shall bear the full burden of proof that a payment was made erroneously.

Employers are not entitled to offset their current contribution obligation by the amount of the contribution claimed to have been made as a result of a good faith mistake of fact or law without prior approval from the TTF. Employers who attempt such an offset will be considered in default of their obligations under their respective CBA or participation agreement and the IATSE Training Trust Fund Trust Agreement, and all appropriate action will be taken to collect such overdue amounts, together with all penalties, interest, fees and costs in accordance with the TTF's delinquency procedures. Employers seeking a return of overpaid contributions must be fully current in the payment of contributions owed to the IATSE Training Trust Fund.

The IATSE Training Trust Fund will acknowledge, in writing, receipt of a refund request, within thirty (30) days of receipt. If an employer does not receive an acknowledgment within 30 days, the employer should follow up with the TTF to ensure that the request was received. It is the employer's responsibility to keep track of all of its refund requests submitted to the TTF. If an employer believes a request has been submitted, but no refund was issued within six (6) months after the initial request, then it is the responsibility of the employer to contact the TTF within one (1) year of the Fund's receipt of the contributions. After one (1) year, the request will be deemed time-barred.

Refunds that are rejected or partially paid by the TTF will be deemed closed. Details are provided to the employer with the refund or rejection. The decision can be reviewed with the TTF but in no event more than six (6) months after the determination has been made.

ELIGIBILITY

An individual beneficiary must be working in a craft or classification represented by the IATSE, or affiliated unions, under its various collective bargaining agreements. Sponsored courses may carry specific class pre-requisites which must be met for admission to the course. The IATSE Training Trust Fund will determine beneficiary eligibility prior to a course offering when course requests are received or when reimbursement programs are initiated.

HOW ELIGIBLE EMPLOYEES CAN ACCESS BENEFITS

IATSE TTF program information is available on our [website](#). Beneficiaries may access information on the benefits available to them through our website, social media, the [IATSE TTF Fact Sheet](#), or their local unions. Please feel free to share the Fact Sheet with anyone working under this agreement.

NOTIFICATION

All signatory employers will receive a “Notice to Employees” as part of the new employer packet emailed upon IATSE Training Trust Fund notification of a new signatory employer status. Employers should post the “Notice to Employees” in an area accessible to employees.

MAKING SUGGESTIONS FOR PROGRAMS AND COURSES

IATSE Training Trust Fund programs are approved by the Board of Trustees and subject to change at the discretion of the Trustees. This also means that programs may be added from time to time at the discretion of the Trustees and on the recommendation of the IATSE Training Trust Fund.

If there are specific courses or programs you would like to see added or offered for employee craft development, certification or safety, please email director@iatsetrainingtrust.org. You can also call The IATSE Training Trust Fund directly and speak with the Executive Director.

W9 FORMS (FOR WORK PERFORMED IN THE US)

The IATSE Training Trust Fund acknowledges that some employers may require a W9 form on file before payment can be issued. Employers requiring a W9 should call (818) 738-1802 ext. 157 or email AR@iatsetrainingtrust.org.

1099 FORMS (FOR WORK PERFORMED IN THE US)

While the IATSE Training Trust Fund may issue W9 forms to employers so they are able to process their contribution checks, the IATSE Training Trust Fund does not get issued 1099's at the end of the year. The IATSE Entertainment and Exhibition Industries Training Trust Fund is a 501(c)9 non-profit that provides services to IATSE members and those persons working in a craft or classification represented by the IATSE, or affiliated unions, under its various collective bargaining agreements.

CONTACT INFORMATION

IATSE Entertainment and Exhibition Industries Training Trust Fund
Liz Campos, Executive Director
2210 West Olive Avenue, Suite 300
Burbank, CA 91506
(818) 738-1802
Website: www.iatsetrainingtrust.org
Email: director@iatsetrainingtrust.org

THESE POLICIES, PROCEDURES, CRITERIA AND GUIDELINES ARE SUBJECT TO CHANGE AT ANY TIME BY THE TRUSTEES. THE APPLICATION AND/OR INTERPRETATION OF THESE GUIDELINES SHALL AT ALL TIMES BE SUBJECT TO THE DISCRETION OF THE TRUSTEES, TO THE FULLEST EXTENT PERMITTED BY LAW.



IATSE ENTERTAINMENT & EXHIBITION INDUSTRIES TRAINING TRUST FUND

2210 West Olive Avenue, Suite 300, Burbank, CA 91506

(818) 738-1802

www.iatsettf.org