

Area 14 Workforce Development Board

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Incumbent Worker Training (IWT) Guidelines

Area 14 Policy 14.15-23.3

Effective: May 15, 2019

Revised: August 21, 2019; May 13, 2020; May 11, 2022



I. Purpose

The purpose of this policy is to provide guidance on the requirements for incumbent worker training.

August 2019 revision changed the business eligibility by adding number 4 under eligibility.

May 2020 revision will allow for non-layoff trainings. It will put a cap on the amounts and frequency a business can receive IWT funding. The cohort groups have changed. Updates were done to coincide with the January 2020 memo from Office of Workforce Development recommendations.

May 2022 will allow for variations in employer contributions based on employer size and allows for IWT training to be paid up front if the training provider the business is using is listed on the WIET State approved training list for the needed training. It also gives how applications and funding will be decided.

Effective

Immediately

III. Background

IWT under WIOA provides both workers and employers with the opportunity to build and maintain a quality workforce and increase both participants' and companies' competitiveness. It is a type of work-based training and upskilling designed to ensure that employees of a company can acquire the skills necessary to retain employment and/or advance within the company, or to acquire the skills necessary to avert a layoff.

IWT is a business service designed to develop a highly skilled workforce which will result in increased business financial viability, stability, competitiveness, and productivity. To avert the risk of closing, IWT may be developed with a business or business association to maintain their competitive status, incorporate new technology, or prevent downsizing.

Workers participating in IWT will benefit by enhancing existing skills, learning new skills, or earning employer or industry recognized credentials, in addition to retaining employment, maintaining their

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careers, and/or increasing their earnings potential. IWT will also allow the opportunity for backfilling vacated positions resulting from the promotion of newly trained workers.

Local workforce development areas (local areas) can use up to 20 percent of their adult and dislocated worker allocations to provide for the federal share of the cost of providing IWT.

IV. Definitions

Cohort: a group of trainees to be trained by an employer as part of a single application for IWT.

Incumbent worker: a worker employed with the company for at least six months when the incumbent worker training starts.

Incumbent worker training: 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 maintain or retain employment or have the opportunity for increased earnings potential through promotion.

In-kind contribution: non-cash contribution of goods or services provided by the business.

Layoff aversion: a continuum of strategies targeted to specific employers or industries that are experiencing a decline and have the potential to undergo layoffs or are experiencing a serious skills gap that impacts their ability to compete and retain workers. A layoff is considered to be averted when:

1. A worker's job is saved at an existing employer facing a risk of downsizing or closing; or
2. A worker at risk of dislocation faces a brief gap of unemployment when transitioning to a different job with the same employer or is hired at a new job with a different employer.

Non-Federal Share: the portion of training costs the employer is required to pay for their employee's participation in IWT. The minimum non-Federal share is determined by the size of the employer.

V. Area 14 Requirements

IWT is a business service designed to develop a highly skilled workforce which will result in increased business financial viability, stability, competitiveness, and productivity. To avert the risk of closing, IWT may be developed with a business or business association to maintain their competitive status, incorporate new technology, or prevent downsizing.

Workers participating in IWT will benefit by enhancing existing skills, learning new skills, and earning employer or industry recognized credentials, in addition to retaining employment, maintaining their careers, and/or increasing their earnings potential. IWT will also allow the opportunity for backfilling vacated positions resulting from the promotion of newly trained workers.

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A. Types of Incumbent Worker Training

IWT is restricted to skill attainment activities. The training should benefit workers by making them more qualified in their line of business and/or by providing them with skills for new products or processes. It is desired that the training results in credentials or industry recognizable skills that promote the worker's career and increases overall employability.

B. Eligibility for Participating Businesses

Area 14 must determine an employer to be eligible to receive local IWT funds based on the following factors, which help to evaluate whether the training would increase competitiveness of the employees and/or the employer. These include:

- 1) The characteristics of the participants in the program, specifically the extent to which they historically represent individuals with barriers to employment as defined in WIOA sec. 3(24), and how they would benefit from retention or advancement.
- 2) The relationship of the training to the competitiveness of a participant and the employer.
- 3) The training must lead to an industry recognized credential or certification within the company that will allow for advancement opportunities provided by the employer.
- 4) The employer is required and committed to full-time employment of 35-40 hours per week, and must be paying a living wage for a household of 1 in the county that the business is located as established by <https://livingwage.mit.edu/states/39/locations>. If the employer is not paying a living wage at the time of requesting funding, then they must agree to increase the workers' wages by \$1 per hour or more at the completion of the IWT.

Funding for IWT training runs by fiscal year which starts on the first day of July every year and end on the 30th day of June. The 20% of adult and dislocated funding will be tracked based on these dates. Funding will be a on first come, first served basis starting on July 1 of each year until the adult and dislocated funds are expended through either the 20% IWTs or if funding has been allocated for regular ITA training for WIOA eligible adults and dislocated workers.

Disqualifying Factors:

Businesses that fail to meet any of the following qualifying criteria are not eligible to receive funds for incumbent worker training:

- Businesses must not be presently debarred, susp y of the following qualifying criteria are not eligible to receive funds for IWT: Ohio. This information can be found at <https://businesssearch.ohiosos.gov/> or <https://sam.gov/content/home>
- 2) Businesses shall not have any outstanding tax liability to the state of Ohio for over six months. WDB will require the businesses to disclose any known outstanding tax liabilities with other states prior to entering into contract. The local WDB may consider existing out-of-state violations when determining eligibility to receive incumbent worker

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training funds. The local WDB must document any resolution of outstanding tax liability, which may include letters from the business or from the State from which the tax liability occurred.

- 3) Businesses must ensure that they are not on the most recent list established by the Ohio Secretary of State that would identify them as having more than one unfair labor practice contempt of court finding.
- 4) Ohio businesses must have all the approvals, licenses, or other qualifications needed to conduct business in the state and all must be current. Should this status change during the local IWT program activities and the business is disqualified from conducting business in Ohio, all training under the IWT program must cease.
- 5) The employer must comply with all applicable federal, state, and local laws and regulations related to providing reasonable working conditions. IWT participants are not permitted to train or work in buildings or surroundings under working conditions that are unsanitary, hazardous, or dangerous to the trainee's health or safety.
- 6) Governmental entities, including the city, county, and state, may not participate in the local IWT program. Health care providers that are operating as not-for-profit entities are the only allowable exceptions to this prohibition.
- 7) Businesses that have relocated to Ohio and have laid-off workers at their former location in the United States may not be considered for this program until they have been in operation at the new location for 120 days.

To verify that a business is not relocating employment from another area, a pre-award review must be undertaken and documented by the local WDB. The review must include the names under which the establishment conducts business, including predecessors and successors in interest; the name, title, and address of the company official certifying the information, and whether WIOA assistance is being sought in connection with past or impending job losses at other facilities of their company. The pre-award review should also include a review of whether appropriate notices have been filed, as required by the Worker Adjustment Retraining Notification (WARN) Act. The review may also include consultations with labor organizations and others in the affected local area(s).

- 8) Businesses must not have any outstanding civil, criminal or administrative fines or penalties owed to or pending in the state of Ohio.
- 9) IWT activities will not be permitted when any of the following apply:
 - a. Any other individual is on layoff from the same or any substantially equivalent job.
 - b. The employer has terminated the employment of any regular, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy with the IWT participant; or
 - c. The job is created in a promotional line that infringes in any way on the promotional opportunities of currently employed workers.

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- 10) Businesses may be deemed ineligible if they have received payments under a previous WIOA contract and exhibited a pattern of failure to provide workers continued long-term employment as regular employees with wages and working conditions at the same level and to the same extent as similarly situated employees.

Eligibility of Incumbent Workers

Area 14 will abide by all the State definitions for incumbent workers for eligibility purposes. Re-training must be needed to prevent lay off or upgrading skills that will allow them to maintain their employment, or the re-training will allow them to advance in the company thereby allowing lower-level entry for new employees and company expansion.

To qualify as an incumbent worker, the incumbent worker must be:

1. Employed;
2. Meet the Fair Labor Standards Act requirements for an employer-employee relationship; and
3. Have an established employment history with the employer for six months or more (which may include time spent as a temporary or contract worker performing work for the employer receiving IWT funds).

If IWT is being provided to a cohort of employees, not every employee in the cohort must have an established employment history with the employer for 6 months or more if the majority of employees being trained meets the employment history requirement.

Procurement of Training

Area 14 has determined that the best way for IWT funds to be provided to businesses is on a reimbursement basis:

A business may be considered a "beneficiary" of this federal program and receive incumbent worker training assistance on a reimbursement basis. WIOA subrecipients and vendors are not considered to be beneficiaries. In order for a business to utilize the beneficiary option, the following guidelines must be followed:

- a) Business beneficiaries may receive reimbursement for their actual training costs incurred under this program, on a reimbursement basis, as outlined in this policy.
- b) Local WDB or the WDB Director's approval of a training plan is required before reimbursement may be provided to a beneficiary. The development of training plans is the joint responsibility of the local WDB director and the business.
- c) The training plan must identify all of the following:
 - i) The provider(s) of training;
 - ii) Type of training;
 - iii) Planned start and end dates;
 - iv) Number of individuals to be trained;
 - v) The projected cost of training; and
 - vi) Any other information required by the WDB.

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All training costs must be allowable as defined in this policy. Training plans must be approved by the local WDB or WDB director prior to the start date of training. Beneficiaries must agree to provide all documentation required by the WDB in order to be reimbursed for the training.

- d) Training providers are not required to be listed on the state's eligible training provider list for the purpose of providing training under paragraph 2 of this section. WDBs may assist business beneficiaries in identifying potential providers of training; however, the selection of a training provider is not subject to state or federal procurement requirements.

Area 14 will also allow for upfront training costs to be provided if the business is using a training provider that is on the State of Ohio's approved WIET provider list located here: <https://owcms.ohio.gov/wiet/index.xhtml>

The business will need to show how they intend to pay the employer share they are required to provide per the cost sharing section below to be submitted along with the application.

Allowable and Unallowable Costs for Incumbent Worker Training Program

Allowable costs may include only costs directly related to training. Allowable costs may include:

- 1) Instructor/trainer salaries.
- 2) Curriculum development, textbooks, manuals, training software, materials and non-consumables.
- 3) Training facility costs (off site training).
- 4) Other necessary and reasonable costs directly related to training.

Unallowable costs include but are not limited to:

- 1) Foreign travel.
- 2) Purchase or lease of capital equipment.
- 3) Encouragement or inducement of a business or part of a business to relocate from any location in the United States.
- 4) Use of IWT funds to pay for a worker's training wages.
- 5) Use of IWT funds to train management employees in management skills such as Six Sigma and LEAN for the purposes of layoff aversion cannot be used. Six Sigma and LEAN can only be allowed if promotional opportunities and increased wages of at least \$1/hr are identified post training.

Cost Sharing Requirements for Incumbent Worker Training

Employers participating in the IWT shall be required to pay for the non-Federal share which can be met through fairly evaluated in-kind contributions to include the following:

1. Wages paid to trainees during the training period

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2. Equipment purchased to be used in the training project
3. Manuals and textbooks
4. Curriculum development
5. Facility usage
6. Travel and lodging costs.

The employer non-Federal share must not be paid by the Federal or State government under another Federal award or State funding opportunity, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs.

The minimum amount of employer share 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.

Employer size is based on the number of employees currently employed (at the time of the execution of the IWT contract) at the local operation where the IWT program will take place. This applies to all employers, including employers with seasonal or intermittent employee size fluctuations.

VI. Fiscal Reporting

Funds contracted to a subrecipient or vendor for an IWT program are reported as program costs.

The fiscal agent must track funds used for incumbent worker training by funding stream and by the year of appropriation.

The administrative cost limit remains in effect. No separate amount may be set aside for administration of the IWT program.

Fiscal agents will report incumbent worker expenditures using the incumbent worker code established by the Office of Fiscal and Monitoring Services. Coding exists for both the adult and dislocated worker programs. The accrued expenditures charged to the incumbent worker code for the adult and dislocated worker programs must not exceed 20 percent. ODJFS will monitor costs reported against the incumbent worker training program.

Funds that are not used for the IWT program may be expended respectively on the Adult and Dislocated Worker programs for program activities authorized by WIOA.

VII. Program Reporting

Program Operators are required to report IWT activities via the Mini Incumbent Worker registration in the state case management system.

IWT programs will be reported in state case management system with a minimal amount of data required. If the local WDB wish to co-enroll an IWT participant, the program operators for the local

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adult or dislocated worker program, will complete a full registration as required in state case management system which includes all of the data elements needed for WIOA participants, including performance data. Co-enrolled participants must meet all eligibility requirements for adult, dislocated worker, and youth programs.

VIII. Monitoring

Program Operators are required to maintain and report accurate program and financial information.

The Area 14 Workforce Development Board will conduct oversight of the implementation of the WIOA IWT and if co-enrolled in WIOA adult and dislocated programs to ensure that participants enrolled in the programs are eligible and that eligibility has been properly documented. Program Operators are required to make available to the board and/or contracted monitors all relevant participant files, documents and paperwork. Program files will be monitored yearly unless it is determined by the board there is a need for more frequent monitoring.

IX. Technical Assistance

For additional information, you may send your questions to the Area 14 Workforce Development Director. Contact information can be found on the Area 14 website: <https://www.ohioarea14.org/>

X. References

Workforce Innovation and Opportunity Act, § 134(d)(4), Public Law 113-128.

2 CFR Part 200, Appendix II

WIOA Regulations at 20 CFR Part 680

TEGL No. 19-16, “Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules,” dated March 1, 2017

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-11.3, Use of ITAs (September 27, 2021).