

**WDA 16**

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# **Policy Letter 05-2021**

**Policy Incumbent Worker Training (IWT)**

1. **Purpose**

The purpose of this policy is to provide guidance on the requirements for Incumbent Worker Training (IWT).

1. **Workforce Development Board Approval**
2. Revised Motion 30-2022 approved on 12/9/22.
3. Motion 40-2021 approved on 12/10/21. This Policy Letter replaces Policy Letter 01-2009 (3/13/09).
4. This Policy Letter is in compliance with Ohio WIOAPL 15-23.1 (11/10/2021).
5. **Background**

Work-based training is employer-driven with the goal of unsubsidized employment after participation. Generally, work-based training involves a commitment by an employer or employers to fully employ successful participants after they have completed the program. It can be an effective training strategy that can provide additional opportunities for participants and employers in both finding high quality work and in developing a high-quality workforce. Work-based models can be effectively used to target different job seekers and employer needs.

Incumbent worker training (IWT) is one type of work-based training model and is designed to either assist workers in obtaining the skills necessary to retain employment, secure an advancement, or to avert layoffs. In all cases, IWT should increase both a participant’s and a company’s competitiveness.

Workforce Development Area 16 (WDA16) may use up to 20 percent of their local adult and dislocated worker formula funds for incumbent worker training. The training should, wherever possible, allow the participant to gain industry-recognized training experience and credentials/licensure.

1. **Definitions**

Incumbent worker: A worker employed with the company for at least six (6) 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.

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:

 A. Worker’s job is saved at an existing employer facing a risk of downsizing or closing; or

B. 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.

Planning region: Two or more local workforce development areas assigned by the State to align workforce development activities and resources with larger regional economic development areas and available resources to provide coordinated and efficient services to both job seekers and employers.

 **V. 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.

WDB16 has several options when determining how best to serve eligible employers. WDB16 can arrange training using the traditional array of individualized career services and training services. WDB16 and planning regions may also implement innovative training strategies that best meet the needs of the business community.

## **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 the overall employability.

Allowable types of training for incumbent workers:

1) Skills upgrading and retraining: Short-term training that enhances occupation-specific skills or basic skills that ideally leads to a recognized credential/certificate. Recognized credentials/licensures are determined by the Ohio Department of Education, Ohio Higher Learning Commission, or the Governor’s Office of Workforce Transformation. County OMJs may approve other industry based credentials/licensure for IWTs which are not on these lists, but must document the validity and value of these credentials/licensures, and that such credentials will meet the worker skill improvement requirements for IWTs.

2) All approved IWTs are intended to result in employees earning wages at or above the WDA16 “DISLOCATED WORKER” wage performance standards negotiated with the State of Ohio.

## **Eligibility for Participating Businesses**

IWT is one of many business services offered through WDB16. The criteria which WDB16 must take into account for an employer to be eligible to receive local incumbent worker funds include:

1) The characteristics of the participants in the program;

2) The relationship of the training to the competitiveness of a participant and the employer;

3) Number of employees participating in the training;

4) Employee advancement opportunities along with wages and benefits (pre and post training earnings);

5) Other training and advancement opportunities offered by the employer;

6) Credentials and skills gained as a result of the training; and

7) Layoffs averted as a result of the training.

There are also businesses that should not participate in this activity due to past or current violations of local, state, or federal law; unfair labor practices; and other conditions identified during the course of conducting initial employer assessments and reviewing contract requirements, assurances, and certifications with the local WDB director or staff. Businesses that fail to meet any of the following qualifying criteria are not eligible to receive funds for incumbent worker training:

1. Businesses must not be presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in transactions by USDOL or the state of Ohio. Below are three websites that may be helpful in checking tax, environmental compliance, and debarment status.

Federal Exclusion and Debarment Site: [http://www.sam.gov](http://www.sam.gov/)

Ohio Department of Taxation: [http://www.tax.ohio.gov](http://www.tax.ohio.gov/)

Business Filing Search: [http://www.sos.state.oh.us](http://www.sos.state.oh.us/)

2) Businesses shall not have any outstanding tax liability to the state of Ohio for over six months. WDBs 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 training funds. The WDB16 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) Ohio businesses must have all of the approvals, licenses, or other qualifications needed to conduct business in the state and all must be current. Should this status change during the course of the local IWT program activities and the business is disqualified from conducting business in Ohio, all training under the IWT program must cease.

4) 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.

5) 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.

6) 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 WDB16. 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).

7) Businesses must not have any outstanding civil, criminal or administrative fines or penalties owed to or pending in the state of Ohio.

8) IWT activities will not be permitted when any of the following apply:

 a) Any other individual is on a 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.

9) 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 similar situated employees.

## **Eligibility of Incumbent Workers**

To qualify as an incumbent worker, the incumbent worker needs to be employed, meet the Fair Labor Standards Act requirements for an employer-employee relationship, and have established employment history with the employer for six (6) months or more. An incumbent worker does not necessarily have to meet the eligibility requirements for career and training services for adults and dislocated workers under WIOA. Further, the Incumbent Worker should be employed in an industry identified in the *SE Ohio Regional Sector Strategy,* **or** work for any employer who needs employees in a skills area defined by the State of Ohio as “In Demand” or a “Top Job”, **or** work in a career locally defined as “in-demand” within the Ohio Means Job Center 15% In-demand exception.

Business Sectors for priority eligibility for IWT in WDA16 include: Advanced Manufacturing (Plastics/Polymers etc.), Healthcare, Shale Energy (Oil and Gas Processing and Chemical Manufacturing).

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 meet the employment history requirement.

## **Training Provider Considerations**

Incumbent worker training may be provided through Individual Training Accounts (ITA) or through contracts for services. If the training is provided through an ITA, all requirements of such ITA must be followed, including the use of approved eligible training providers. If a contract is used to provide the IWT, this contract must have been established through proper procurement procedures. Employers would be reimbursed for costs of approved training that was delivered to their employees.

Training providers without satisfactory past performance, accreditation, curricula that lead to credentials, relevant training experience, accredited instructors, high job placement rates, and/or high training completion rates, should be avoided.

The training facility should provide an environment that supports learning and be within reasonable proximity to the trainees so the cost and time required for travel is minimized.

## **Procurement of Training**

1) A business may be considered a “beneficiary” of this federal program and receive incumbent worker training assistance on a *reimbursement* basis. WIOA sub recipients 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) WDB16 approval of a training plan is required before reimbursement may be provided to a beneficiary. Review/approval of the training plan(s) is the joint responsibility of WDB16 and the business.

c) The training plan must identify all of the following:

i) Type of training and credential/licensure to be earned as per V. Requirements;

ii) Planned start and end dates;

iii) Number of individuals to be trained;

iv) The projected cost of training; and

v) Any other information required by WDB16.

All training costs must be allowable as defined in this policy. Training plans must be approved by the WDB16 Operator or WDB Director prior to the start date of training. Beneficiaries must agree to provide all documentation required by WDB16 in order to be reimbursed for the training.

d) Preferred training providers should 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.

## **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);
4. Costs of credential testing/certification;
5. 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.

## **Cost Sharing Requirements for Incumbent Worker Training**

Employers participating in the IWT shall be required to pay for the non-Federal share of the cost of providing the training to incumbent workers of the employers.

The non-federal share shall not be less than:

1) 50 percent of the cost for any size employer

Additionally, if the IWT plan is approved and the total project training cost exceeds the maximum allowed for WIOA funded IWT training, then the company will be required to pay the difference.

Employee wages, during their approved IWT training time, qualify as non-federal match.

## **Local Workforce Development Area Policy**

Pursuant to NPRM 680.780, WDB16, in coordination with the planning region, must establish policies and definitions to determine which workers or groups of workers, are eligible for incumbent worker services.

Building on the *SE Ohio Regional Workforce Plan*, the region developed a *SE Ohio* *Industry Sector Strategy.* This strategy is the foundation for local WDB16 focus and policies for IWT.

WDB16 will allow a minimum of $500 to up to $5,000 per incumbent worker for training. This would represent the WIOA 50% share of the training total cost. The maximum IWT award to any employer in any one (1) year is $25,000 (July 1 to June 30).

1. **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.

No separate funding 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.

1. **Program Reporting**

WDB16 will report IWT activities via the Mini Incumbent Worker registration in the Ohio Workforce Case Management System.

The state has streamlined the reporting requirements to a minimal level that should not overburden employers but still allow for an assessment of the effectiveness of Ohio’s IWT programs. WDB16 must ensure that every IWT program is compliant with reporting requirements.

IWT programs will be reported in the Ohio Workforce Case Management System with a minimal amount of data required. If WDB16 co-enrolls an IWT participant in the local adult or dislocated worker program, a full registration is required in the Ohio Workforce 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. WDB16 will provide a form to the employer for all required initial and ongoing data requirements.

### **VIII. Monitoring**

WDB16 will monitor IWTs as follows:

1. Compliance of training delivery and reimbursement billing consistent with documentation in the IWT application, contract and other documentation. This will be conducted at least once for every IWT agreement.
2. Survey of IWT participants approximately 3-6 months after the completion of the program to track their status ( employment, wages, advancement etc.) versus the expected goals outlined in the ITW Employer contract.
3. Through the state’s monitoring system, program monitors will review the local area’s implementation of the WIOA IWTs, including a participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.

Resolution of any contractual or performance issues will be conducted as per WDB16 policy and procedures.

**END**