



Incumbent Worker Training Policy

Policy Number: 110

Effective Date: July 1, 2020

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I. Purpose:

This policy provides criteria by which the South Central Workforce (SCW) will determine which employers and workers are eligible for incumbent worker training using WIOA Title I formula funds or statewide Rapid Response funds, and the cost-sharing required for incumbent worker training (WIOA Section 134 (d)(4)).

II. Background:

The SCW has a long history of utilizing special purpose funding to deliver wide-ranging technical skills training to employees (incumbent workers) of local companies from construction, manufacturing, ag/food processing, healthcare, wind farm, and unmanned aerospace vehicle (UAV) industries. Incumbent worker training has been a popular and key service to industry/business by increasing the competitiveness of the employee and the employer or averting employee layoffs.

Under WIOA Section 134 (d)(4), local boards may reserve/ expend up to 20% of their combined adult and dislocated worker formula funds, for incumbent worker training.

Per WIOA Section 134(a)(3)(A)(i), the State may use state Rapid Response funds for layoff aversion and WIOA Governor's discretionary funds for statewide incumbent worker training activities.

III. Policy:

a. Key Operating Standards:

- i. Each program year (July 1st – June 30th), the SCW shall determine an amount of adult/dislocated worker formula funds to be reserved/expended for incumbent worker training subject to performance results (annual report) and budget considerations.
- ii. Incumbent Worker Training Applications will be open and competitive each program year (July 1st – June 30th), or until all funding is exhausted. Applications will be reviewed and awarded on a quarterly basis (January,

- April, July, and October), and responded to within 30 days after the end of a quarter. Employers can only be awarded once during the program year.
- iii. Incumbent worker training will be prioritized for businesses and employees from key Industry Sectors identified in SCW's WIOA Strategic Plan. However, the SCW will consider other opportunities with industries/companies to avert layoffs, address skill shortages, or assist emerging industries.
 - iv. The SCW's incumbent worker training dollars are best leveraged when working with industry partnerships, associations, consortiums, round tables, and where training projects benefit more than one company. The SCW will give priority to projects working with industry partnerships for multi-company training.
 - v. WIOA requires a minimum company match from participating employers of 10%-50% depending on the size of the company. Whenever possible, the SCW will capture 100% company match (cash or in-kind or a combination). Company match can be satisfied with the cost of wages/benefits paid to the employee/trainee while in training. The SCW must track and document employer cost share contributions. See Section B. Employer Share of Training Costs.
 - vi. A tagline for SCW-funded incumbent worker project material (written or electronic) indicating "This training project was sponsored by South Central Workforce" will be required.
 - vii. The SCW will review and determine whether to fund incumbent worker training proposals received through Incumbent Worker Training Applications.

b. Employer Share of Training Costs:

Per WIOA Sections 134(d)(4)(C) and 134(d)(4)(D) and 20 CFR 680.820, employers participating in incumbent worker training are required to pay the non-WIOA (non-federal) share of the cost of providing training to their incumbent workers. The employer share is based on the size of the workforce (wages paid to the participant while in training can be included as part of that share and the share can be provided as cash or in-kind) that is fairly evaluated as follows:

- i. At least 10 percent of the cost for employers with 50 or fewer employees
- ii. At least 25 percent of the cost for employers with 51 to 100 employees
- iii. At least 50 percent of the cost for employers with more than 100 employees

Per WIOA Section 181 (b)(1) and 20 CFR 683.250(a), WIOA Title I funds cannot be spent on the wages of incumbent employees during their participation in incumbent worker training. Incumbent worker wages paid by the employer during training cannot be included in the cost of training.

The SCW will track and document employer cost share contributions.

c. Training:

Training can be provided through community and technical colleges, vocational-technical centers, state colleges and universities, licensed and certified private entities/institutions, industry-specific consulting or training organizations, professional associations, credentialing entities, or the business itself (through in-house trainers). If in-house training is provided, it must be for training to support new skills that will make the employer more competitive or avert layoffs.

- i. Local Workforce Development Board (LWDB) Procurement of Training
LWDBs that contract directly with training providers for incumbent worker training on behalf of employers, must ensure that the terms of that procurement are allowable, consistent, and at reasonable cost.
 1. Incumbent worker training that is developed and delivered by contracted vendors must be procured consistent with the regulations at 2 CFR 200.320. Depending on cost, applicable procurement requirements consist of one of the following:
 - a. 2 CFR 200.320(a) – Micro-purchase. Purchases within the micro-purchase threshold (not to exceed \$10,000).
 - b. 2 CFR 200.320(b) – Procurement by small purchase. Cost not more than the Simplified Acquisition Threshold (not to exceed \$250,000).
 - c. 2 CFR 200.320(c) – Procurement by sealed bids.
 2. LWDBs must define Simplified Acquisition Thresholds, not to exceed the \$250,000 Federal Threshold, in their local procurement policies.
 3. When small purchase procedures are used, price or rate quotations must be obtained from an adequate number of sources and maintained as documentation. The state defines adequate as at least three qualified sources.
 4. LWDBs seeking exceptions to the state requirement in subsection i.3 must have local policies citing a requirement for a minimum of two quotations from qualified sources. If two quotations cannot be obtained, the SCW must meet Uniform Guidance requirements for sole source procurement.
 5. Methods of obtaining qualified sources on price or rate quotations can be in writing, orally, vendor price list on the website, or generated via an online search engine.
- ii. Employer-Secured Training
 1. When the training provider is secured by the employer, procurement is not required. The LWDB enters into an agreement with the employer to reimburse for the WIOA federal share cost of the training. The agreement with the employer must document, at a minimum:
 - a. The training being provided;
 - b. That the cost is reasonable for what is being provided; and
 - c. The approximate dollar amounts, both paid by the employer and paid by the LWDB for the federal share.
 2. When in-house training is provided by an employee of the employer, the reimbursement amount is based on the employer share calculation. For example, the employer purchases new machinery but now must

train staff in its use. One employee has been trained to use it and has the capacity and skill to train others, but calculations indicate it will be costly to devote that employee to the task because they would not be able to perform their own job while training staff. That employee's wages when providing the training would be included in the cost of training, and therefore, part of the cost share calculation.

d. Incumbent Worker Training with Local Formula Funds:

i. Employee Criteria:

An incumbent worker must be:

1. Employed;
2. Meet the Fair Standards Act requirements for an employer-employee relationship <https://www.dol.gov/whd/flsa/>; and
3. Have an established employment history with the employer for six (6) months or more.

If incumbent worker training is provided to a cohort of employees, not every employee in the cohort must have an established employment history with the employer for six months or more as long as a majority (51 percent or more) of the employees being trained meet the employment history requirement.

Per 20 CFR 680.780, incumbent workers do not have to meet the eligibility requirements for career and training services for adults and dislocated workers unless they also are enrolled as participants in the WIOA Title I Adult or Dislocated Worker programs.

ii. Employer Criteria:

LWDBs may consider the following factors when determining the eligibility of employers to receive the WIOA share of funds to provide training to incumbent workers using either local Adult and/or Dislocated Worker formula funds or WIOA statewide discretionary funds provided by the Governor:

1. The characteristics of the incumbent workers to be trained, specifically the extent to which they historically represent individuals with barriers to employment as defined in WIOA Section 3(24), and how they would benefit from retention or advancement;
2. The quality of the training (e.g., industry-recognized credentials, advancement opportunities);
3. The number of participants the employer plans to train or retrain;
4. The wage and benefit levels of participants (before and after training);
5. The occupation(s) for which incumbent worker training is being provided must be in demand as defined by WIOA Section 3(23) and as determined by workforce development area-specific labor market information;
6. The employer:
 - a. Is in an in-demand industry as defined by WIOA Section 3(23) and determined by labor market information; or

- b. Is in an in-balance industry as determined by labor market information; or
- c. Is in a declining industry, but there are compelling reasons (e.g., evidence of long-term viability of the employer) justifying investment in incumbent worker training.
- d. The employer must not have laid off workers within 120 days to relocate to Washington from another state;
- e. The employer is current in unemployment insurance and workers' compensation taxes, penalties, and/or interest or related payment plan.

LWDBs must document the factors that were considered in approving an incumbent worker training project with an employer.

e. Incumbent Worker Training (IWT) for Layoff Aversion using State Rapid Response Funds

- i. An IWT program conducted with rapid response funds must be tied to a layoff aversion strategy for a threat of layoff. For the definition of Layoff Aversion, see Section 4. Definitions in this policy.
- ii. An IWT as part of layoff aversion must be above and beyond the normal training offered by businesses to their employees. Rapid response resources must not supplant private funds in these situations.
- iii. As per WIOA Final Rule commentary on 20 CFR 682.320 as it relates to incumbent worker training and TEGE 19-16, Section 18.A, "Layoff aversion strategies and activities are designed to prevent, or minimize the duration of, unemployment resulting from layoffs."
- iv. Individuals may need assistance to maintain or retain a good job by enhancing their skills or learning new technologies and procedures in an ever-changing economic environment. Without appropriate training that allows existing workers to gain the necessary skills to operate new processes or technologies, employers may find it necessary to lay off workers with obsolete skills.
- v. The overall goal of layoff aversion is to save jobs. Layoff aversion is intended to prevent or minimize a potential period of unemployment for employees of companies that have announced layoffs or are struggling and at risk for layoffs. Layoff aversion focuses on saving jobs, putting people back to work, shortening the length of the layoff, and revitalizing communities.
 - 1. Employee Criteria
 - a. The worker must be considered for layoff because they do not have marketable, in-demand skills unless provided with the training.
 - b. The new skills can be attained in a reasonable period.
 - c. There exists a strong possibility of a job, either with the existing employer or a new employer, if new skills are attained.

2. Employer Criteria
 - a. The company remains open but is phasing out a function that will lead to layoffs unless the workers can be retrained to perform new functions.
 - b. A worker's job has changing skill requirements because of external economic or market forces, significant changes in technology or operating processes, rapidly changing industry or occupational job requirements, or the emergence of new products.
 - c. The changing skill requirements are outside of normal skill growth and upkeep that would be provided by the employer.
 - d. Training programs reasonably prepare workers to address these skill gaps.
 - e. The employer demonstrates a commitment to retain employees or otherwise provide a tangible benefit to employees who receive IWT.
3. How to identify "at risk" Employers
 - a. The most common "at risk" indicators include declining sales, supply chain issues, adverse industry or market trends, changes in management philosophy or ownership, and workers lacking in-demand skills.
 - b. Establish Early Warning Networks (EWNs); a multi-stakeholder approach to identifying companies at risk early enough to be able to mount an effective layoff aversion strategy. It is encouraged that LWDB develop EWNs to assist in identifying companies at risk of closing or layoffs; or
 - c. Monitoring trends and understanding the early warning indicators can buy time to develop an alternative to job loss. Economic trend monitoring is used to analyze industry trends within a region. The function of trend monitoring is to identify firms at risk of leaving, or closing, prior to actual decisions by companies to shut down or relocate.

f. At Submission:

The review committee only reviews applications once a quarter (January, April, July, and October). Thus, an Incumbent Worker Training Application will not be accepted for training that has already occurred or is eminently occurring. For example, if an application was submitted on January 5th, the application will not be reviewed until April.

Forms required at submission are the Incumbent Worker Training Application and Budget and Match Worksheet, as well as a course description and/or curriculum.

g. Review Process:

The process will include the following:

- i. Incumbent Worker Training Applications submitted via email.
- ii. If the request for funds is over \$10,000, see Section C. Training, #1.

- iii. Staff will provide the SCW Vendor Selection Form (if applicable), SCW Staff Scoring Sheet, and the Committee Scoring Sheet to the review committee. A majority must approve in order to award.
- iv. Staff will notify the applicant of the committee's decision via email.

h. Industry Training Services Contract:

The SCW's Incumbent Worker Training program requires multiple forms of documentation to comply with our funding source which includes the release of personal identifying information, including social security number and date of birth. All personal identifying information will be kept secure. If these items are not received the SCW will withhold reimbursement of the training.

An Industry Training Services Contract must be executed with the entity that submitted the Incumbent Worker Training Application.

Once the Industry Training Services Contract is executed the Employer will need to complete:

- i. Incumbent Worker Training Before and After Training Trainee List
- ii. Incumbent Worker Match Report

Furthermore, each employee participating in the training must complete the following before training begins:

- i. Incumbent Worker Training Employee Application
- ii. Release of Information
- iii. Create a WorkSource WA account at www.worksourcewa.com

i. At the Conclusion of Training:

The Employer is required to provide for each training a class roster and all certifications, licenses, certificates of completion, etc. If these are not received reimbursement will be withheld until received.

j. Special Incumbent Worker Projects:

Special Incumbent Worker Projects, such as the Upskill/Backfill Initiative, may have additional requirements due to the application process and/or procurement specifications.

IV. Definitions:

Incumbent Worker: An individual who is employed, meets Fair Labor Standards Act requirements for an employer-employee relationship, and has an established employment history with the employer for six months or more. 20 CFR 680.780

Incumbent Worker Training: Training designed to meet the special requirements of an employer (or group of employers) to retain a skilled workforce or avert the need to lay off employees by assisting workers in obtaining the skills necessary to retain employment and conducted with a commitment by the employer to retain or avert laying off incumbent

worker(s) that are trained in order to increase the competitiveness of the employee and/or employer.

In-Demand Industry Sector Occupation: In general, (i) an industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the state, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors; or (ii) an occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the state, regional, or local economy, as appropriate. The determination of whether an industry sector or occupation is in demand shall be made by the state board or local board, as appropriate, using state and regional business and labor market projections, including the use of labor market information. [WIOA Section 3(23)]

Layoff Aversion: A layoff is averted when: 1) a worker’s job is saved with an existing employer that is at risk of downsizing or closing, or 2) a worker at risk of dislocation transitions to a different job with the same employer or a new job with a different employer and experiences no time or a minimal time on unemployment.

For SCW Staff Only:

a. Incumbent Worker Training Data Entry:

Incumbent workers who are served through WIOA Title I (i.e., Adult Formula, Dislocated Worker Formula, National Dislocated Worker Grant, Governor’s 15% Discretionary, Statewide Rapid Response) grant funds must be affiliated with an employer, training start date, and fund source in order to satisfy requirements of the U.S. Department of Labor’s WIOA-affiliated Participant Individual Record Layout (PIRL).

To meet this requirement, staff are instructed to do the following:

1. Select the **WIOA Eligibility Application TouchPoint**. In the drop-down box, select **Full WIOA Eligibility**, check the **Dislocated Worker** box option.
2. Under the tabs select the “**Employment**” tab.
3. Under the “Applicant May Be Eligible for:” statement select the Dislocated Worker box the “None of the above” radio button under **Dislocated Worker Status**. Record the training start date in the **Date of Actual Dislocation** field and the employer name in the **Employer of Dislocation Address** field on the **Employment** tab.
4. Select the **Program Enrollment TouchPoint** and enroll the participant in the program that reflects the funding source. For example, if the funding source is WIOA Adult, select that program rather than WIOA Dislocated Worker.
5. Select the **Individualized, Training and Supportive Service (ITSS) TouchPoint**. Enter the **Activity Start Date**, Projected Activity Start Date, and **Projected Activity End Date**. Then select the **Incumbent Worker Training**

service from **Service Provided** drop down menu. Select the **Active Program Enrollment** to associate the service with the active program and save the TouchPoint. When IWT has been completed, **edit** the same TouchPoint and enter the **Activity End Date** and **Actual Outcome**.

The SCW will use case notes to document that this is an incumbent worker training activity and that current employer information and contract start date/end dates have been captured.

Important Note: If multiple funding sources are used for the training, a separate Program Enrollment TouchPoint and ITSS Incumbent Worker Training service are needed for each program funding the training. A new WIOA Eligibility Application is not needed. Each Program Enrollment TouchPoint taken will utilize the same WIOA eligibility application.

b. At the Conclusion of Training

In order to capture the outcome of the incumbent worker training, staff are instructed to do the following:

- i. Edit the **ITSS TouchPoint** entered for the incumbent worker training and enter the **Activity End Date** and **Actual Outcome**.
- ii. Edit the **Program Enrollment TouchPoint** and update **Status** and **Enrollment End Date**.
- iii. Complete case notes for each participating employee.

V. Website:

seworkforce.org