



**Subject: Employer Criteria and Cost Sharing for Training Provided to Incumbent Workers**

**Policy No: 2015-08**

**Effective Date: 06/28/2016**

**Revised: 03/13/2019, 3/17/2021**

**1. Purpose:**

To clarify the criteria to determine which workers, or groups of workers, are eligible for incumbent worker services and the cost sharing required for incumbent worker training projects (WIOA Section 134(d)(4)).

**2. Background:**

Incumbent worker training is designed to increase the competitiveness of the employee and employer. Per WIOA Section 134(d)(4)(A)(i), the Benton-Franklin Workforce Development Council (BFWDC) may reserve and expend up to 20 percent of their combined Adult and Dislocated Worker formula allotments 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.

**At this time, BFWDC does not utilize incumbent worker training.**

Per Washington WorkSource System Incumbent Worker Training 5607, Revision 4 Policy, Local Workforce Development Boards (LWDB) that do not offer incumbent worker training services to employers are exempt from this requirement.

## **Operational Procedure**

### **A. Incumbent Worker Eligibility Requirements**

An incumbent worker must be:

1. Employed;
2. Meet the Fair Labor Standards Act requirements for an employer-employee relationship [www.dol.gov/whd/flsa](http://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.

### **B. Employer Eligibility Criteria**

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

- 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;
- The quality of the training (e.g., industry-recognized credentials, advancement opportunities);
- The number of participants the employer plans to train or retrain;
- The wage and benefit levels of participants (before and after training);
- 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 produced by ESD;
- The employer is:
  1. In an in-demand industry as defined by WIOA Section 3(23) and determined by ESD labor market information; or
  2. In an in-balance industry as determined by ESD labor market information; or
  3. 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.

- The employer must not have laid off workers within 120 days to relocate to Washington from another state;
- The employer is current in unemployment insurance and workers' compensation taxes, penalties, and/or interest or related payment plan.

Each of the above factors leading to the approval of an incumbent worker training project with an employer must be documented.

#### **D. Employer Share of Training Costs**

Per WIOA Sections 134(d)(4)(C) and 134(d)(4)(D), 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:

1. At least 10 percent of the cost for employers with 50 or fewer employees
2. At least 25 percent of the cost for employers with 51 to 100 employees
3. At least 50 percent of the cost for employers with more than 100 employees

Service providers must track and document employer cost share contributions.

#### **E. 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, State wide 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, program staff are instructed to do the following:

- Select the WIOA Eligibility Application TouchPoint and then select the full WIOA enrollment and Dislocated Worker option.
- Select 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.
- 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.
- Select the Individualized, Training and Supportive Service (ITSS) TouchPoint and 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.

**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.

## **F. 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 6 months or more.

**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 or 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)]

## **References**

[WIOA Section 3\(23\)](#)

[WIOA Section 134\(d\)\(4\)](#)

[Washington WorkSource System Incumbent Worker Training 5607, Revision 4](#)