

# Northwest Workforce Council

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## POLICY AND PROCEDURE DIRECTIVES

**EFFECTIVE DATE:** October 5, 2019

**SUBJECT:** WIOA TITLE I-B INCUMBENT WORKER TRAINING POLICY

**REFERENCE #:** WIOA 02-01 Revision 3 (6/23/2021)

### PURPOSE

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

### BACKGROUND

Incumbent Worker training is 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 retain employment and is conducted with a commitment by the employer to retain or avert the layoff of the incumbent worker. An ideal incumbent worker training would be one where a participant acquires new skills allowing him or her to move into a higher skilled and higher paid job within the company, thus allowing the company to hire a job seeker to backfill the incumbent worker's position. Incumbent Worker training must increase both a participant's and a company's competitiveness.

Under Section 134(d)(4) of WIOA, local boards can use up to 20 percent of their adult and dislocated worker funds to provide for the federal share of the cost of providing Incumbent Worker training.

### POLICY

#### Incumbent Worker Eligibility Criteria:

An incumbent worker must be:

1. Employed;
2. Meet the Fair Standards Act requirements for an employer-employee relationship <http://www.dol.gov/whd> ; 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.*

*Note: Per 20 CFR 680.780, an incumbent worker does not necessarily have to meet the eligibility requirements for career and training services for adults and dislocated workers under this Act.*

#### 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:

1. The characteristics of the incumbent workers to be trained and how they would benefit from

- retention or advancement. Consideration should be given to employers who propose to train individuals with barriers to employment as defined in WIOA Section 3(24). (See Attachment A);
2. The quality of training. Whenever possible, the training should allow the participant to gain industry-recognized training experience and/or lead to industry-recognized credentials and/ or an increase in wages;
  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;
  6. The employer is:
    - a. In an in-demand industry as determined by ESD labor market information; or
    - b. In an in-balance industry as determined by ESD labor market information; or
    - c. 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.
  7. The employer must not have laid off workers within 120 days to relocate to Washington from another state;
  8. The employer is current in unemployment insurance and workers' compensation taxes, penalties, and/or interest or related payment plan.
  9. In cases when funding source is restricted to layoff aversion activities and strategies, these funds can only be used for incumbent worker training that supports layoff aversion and reduces any reductions in the employer's workforce.

Each of the above factors leading to the approval of an incumbent worker training project with an employer must be documented and placed in the contract file.

**Employer Share of Training Costs:**

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. (WIOA Sections 134(d)(4)(C) and 134(d)(4)(D) and proposed 20 CFR 680.820).

The employer share is based on the size of the workforce and the share can be provided as cash or in-kind, that is fairly evaluated, as follows:

- o At least ten percent (10%) of the cost for employers with 50 or fewer employees
- o At least twenty-five percent (25%) of the cost for employers with 51 to 100 employees
- o At least fifty percent (50%) of the cost for employers with more than 100 employees

In-kind match can be:

- Employee's salary, if paid while in training, and travel expenses associated with the training;
- Replacement salaries paid while employees are in training;
- The value of donated time of company employees when providing training.

Other employer in-kind contributions which conform to federal cost sharing rules may also be approved as part of the required employer share, but only after NWC staff review and approval when warranted as a feature of a specific training proposal from an applicant employer.

Employer cost share contributions must be tracked and documented in the contract file. In addition, the

methodologies for determining the value of in-kind contributions must be documented in the contract file and conform to cost sharing requirements at 2 CFR 200. 306.

**References:**

WIOA Section 3(23)

WIOA Section 134(d)(4)

20 CFR 680.780, 680.790 and 680.820

2 CFR 200.306

Washington State Policy Number: 5607, Revision 3

**INQUIRIES**

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