

5540POL Incumbent Worker Training

Effective Date: March 2018

Last Modified: March 2022

Incumbent worker training (IWT) 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. A successful IWT allows businesses to grow talent from within, stay competitive in new or emerging markets, and retain and/or promote employees through skills development. The incumbent worker training would be one where a participant acquires new skills allowing them 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.

- 1. Local boards can use up to 20% of their adult and dislocated worker funds to provide for the federal share of the cost of providing IWT (Section 134(d)(4)).** Use of Rapid Response funding is allowable as part of a broader layoff aversion strategy. However, Adult and Dislocated Worker funds have allocation priority.
- 2. Incumbent Worker participants must be enrolled into WIOA Title I-B Adult and Dislocated Worker. Incumbent Worker must be:**
 - Employed
 - Meet the Fair Labor Standards Act requirements for an employer-employee relationship, AND
 - Have an established employment history with the employer for 6 months or more: OR be part of a cohort wherein the majority of employees receiving training have an established employment history of six months or more with the employer.
- 3. 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:
 - The characteristics of the incumbent workers to be trained and how they would benefit from retention or advancement (per *WIOA Section 3(24)*)
 - Whenever possible, the training should allow the participant to gain industry-recognized training experience or lead to industry-recognized credentials or an increase in wages
 - The number of participants the employer plans to train or retrain
 - The wage and benefit levels of participants (before and after training)
 - The employer and training are:
 - 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. Per WS Policy 5607 (rev5).
 - The employer is current in unemployment insurance and workers' compensation taxes, penalties, and/or interest or related payment plan.

- 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.

- 4. Subrecipient intending to implement an IWT will provide OWDC supervisor with a completed IWT application that meets the following criteria:**
 - a. Generally, IWT should be provided to private sector employers; however nonprofit and local government entities may be the recipients of IWT funds and require OWDC supervisory approval.
 - b. Labor market competitiveness of the employees, the employer or both
 - c. Other factors to consider include:
 - The number of employees participating in the training
 - Wage and benefit levels of those employees (both pre-and post-training earnings)
 - The existence of other training and advancement opportunities provided by the employer
 - Credentials and skills gained from the training
 - Layoffs averted from the training
 - Utilization as part of a larger sector and/or career pathway strategy
 - Employer size
- 5. Procurement of training may be contracted directly with training providers for IWT.** 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, or credentialing entities, or the business itself (through in-house trainers).
- 6. IWT funds allocation is not allowable for any business or sector or division of a business that has relocated.** Unless 120-days after relocation and the relocation of the business or sector or division of a business results in a loss of employment for any employee at the original U.S. based location (Per *WIOA Sec, 181(d)(2)*).
- 7. IWT funds cannot be used for employee wages or new hire training.**
- 8. Employer Payment Requirements (Per TEGL 19-16):**
 - Employers are required to pay the non-WIOA share of the cost of providing incumbent workers.
 - Employers are required to pay a portion of the training for those individuals in incumbent worker training and this may be done through both cash payments and fairly evaluated in-kind contributions.
 - The employer contribution may include the wages the employer pays to the incumbent worker trainee while the worker is attending training.

- Under section 134(d)(4)(D) of WIOA, in establishing the employer share of the cost, the Local WDB must consider:
 - The number of employees participating in the training,
 - The wage and benefit levels of the employees (at the beginning and anticipated upon completion of the training),
 - The relationship of the training to the competitiveness of the employer and employees, and
 - The availability of other employer provided training and advancement opportunities.
- The employer’s payment for the non-WIOA share can be cash payments, fairly evaluated in-kind contributions, or both.
- The minimum amount of employer share in the IWT depends on the size of the employer and may not be less than:
 - 10% of the cost, for employers with 50 or fewer employees
 - 25% of the cost, for employers with between 51 to 100 employees; and
 - 50% of the cost, for employers with more than 100 employees.

SEE ALSO:

- 5540ATT IWT Application
- 5540ATT IWT Budget Worksheet

References

Employer Criteria and Cost Sharing and Training and Provided to Incumbent Workers Training, [Workforce Innovation and Opportunity Act Policy 5607 \(Rev5\)](#)

Guidance on Services, Implementation of WIOA Final Rules, Training and Employment Guidance Letter, [TEGL 19-16](#)

Performance Accountability Guidance for Workforce Innovation and Opportunity Act (WIOA) Title, I, Title II, Title III, and Title IV Core Programs, Training and Employment Guidance Letter, [TEGL 10-16, Change 2](#)

Requirements and Restrictions, Workforce Innovation and Opportunity Act Final Law H.R. 803 (113-128) [§181\(d\)\(2\)](#)

Use of Funds for Employment and Training Activities, Workforce Innovation and Opportunity Act Final Law H.R. 803 (113-128) [§134\(d\)\(3\)\(C\), 134\(d\)\(3\)\(C\)\(vi\)](#)

What is incumbent worker training? Code of Federal Regulations, Title 20, Chapter V, Part 680, Subpart F, [20 CFR §680.790](#)

Work-Based Training: Who is an "incumbent worker" for purposes for statewide and local employment and training activities? Code of Federal Regulations, Title 20, Chapter V, Part 680, Subpart F, [20 CFR §680.780](#)