

## **WIOA Incumbent Worker Training Policy**

The purpose of this policy is to provide funding guidance for WIOA Incumbent Worker Training (IWT) funding under the Workforce Innovation and Opportunity Act (WIOA) issued through the Northwest Pennsylvania Workforce Development Area (NW170).

An “Incumbent Worker” is defined as an individual who has an established employment history with the employer for six months or more. The individual’s six-month work history must be documented. The IWT contract must include the six-month work history requirement as a term of the contract.

**Incumbent Worker Training** means training by an employer or training provider in close partnership with an employer that is provided to a paid participant while engaged in productive work in a job that:

- (a) Provides knowledge or skills essential to the full and adequate performance of the occupation;
- (b) Provides reimbursement to the employer for the costs of providing the training and additional supervision related to the training; and
- (c) Is limited in duration as appropriate to the occupation for which the participant is being trained.

Incumbent Worker Training is intended to meet the requirements of an employer or group of employers to retain a skilled workforce or avert the need to lay off employees lacking specific skills.

A maximum of 20% of the overall WIOA adult and dislocated worker funds allocated to the local area may be reserved and spent on incumbent worker training.

### **Eligibility Requirements**

#### **Participant Eligibility**

*Note: Per 20 CFR 680.780, an incumbent worker does not necessarily have to meet the eligibility requirements for WIOA career and training services for the Adult or Dislocated Worker Program, unless they are also enrolled as a participant in the WIOA Adult and Dislocated Worker program.*

For an individual to qualify for IWT under the WIOA guidelines, he/she will:

- Be employed;
- Have an established employment history with the employer for six (6) months or more; and
- Meet the Fair Labor Standards Act requirements for an employer-employee relationship; and
- Earn less than \$20.00 per hour

#### Employer Eligibility

Eligible employers able to participate in IWT contracting include: private-for-profit businesses, private non-profit organizations, and public sector employers. An employer will NOT be eligible to receive WIOA IWT training reimbursements if:

- The employer has any other individual on layoff from the same or substantially equivalent position
- The IWT would infringe upon the promotion of or displacement of any currently employed worker or a reduction in their hours
- The same or a substantially equivalent position is open due to a hiring freeze
- The positions are for seasonal employment
- The position is not full time (i.e. minimum of 32 hours per week)

#### Occupational Eligibility

IWT funding must be used on in-demand occupations which lead to employment opportunities enabling the participant to become economically self-sufficient and which will contribute to the occupational development and upward mobility of the participant. The listing of in-demand occupations can be accessed at [www.nwpajobconnect.org](http://www.nwpajobconnect.org).

At the time of completion of the IWT program, individuals must be employed in occupations that meet the following criteria:

- Hourly wage must be at or above the self-sufficiency wage or the employee's starting wage, if starting wage was higher than the self-sufficient wage
- The occupation must be a full-time permanent position following the training (minimum of 32 hours per week).

#### **General WIOA Incumbent Worker Training Requirements.**

- WIOA IWT contracts shall not be made with employers who have previously exhibited a pattern of failing to provide IWT participants with continued long-term employment with wages, benefits and working conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work.
- When funds are available and budgeted, WIOA IWT contracts may be written for eligible individuals when:
  - The employee is not earning at least \$20.00 per hour. Priority in funding will be given to those individuals not earning a self-sufficient wage as determined by the NWPA Job Connect Self Sufficiency Policy.

- The IWT is necessary to meet the requirements of an employer or 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.
- It is expected that employers that use IWT funding will maintain the employment of the individual receiving the training as a full-time employee, provide benefits and working conditions at the same level and to the same extent as other employees working a similar length of time, and doing the same type of work for at least six months following the training.
- WIOA funds may not be used in conjunction with Pennsylvania Department of Education customized training programs.
- IWT contracts will generally not be written for low skill jobs that generally would require little or no training.
- IWTs should only be awarded to companies in alignment with the sector strategies of the WDB.
- Per WIOA regulations (20 CFR 683.200(g)), “no individual may be placed in an employment activity if a member of that person’s immediate family is directly supervised by or directly supervises that individual.” For the purpose of this policy, the term “immediate family” includes a spouse, child, son-in-law, daughter-in-law, parent, mother-in-law, father-in-law, sibling, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, step-parent, step-child, grandparent, and grandchild.
- Per 20 CFR §680.530, providers of incumbent worker training are not subject to the requirements applicable to entities listed on the eligible training provider list (ETPL). However, such training providers must be determined acceptable by the NWPA Job Connect.

**WIOA Incumbent Worker Training Length**

The maximum time frame for an IWT is 6 months. Duration of an IWT is a function of training needed, NOT the maximum allowed under this policy. WIOA Title I program services staff should consult with the employer and use the Occupational Information Network’s (ONET) Specific Vocational Preparation Range (SVP) to determine the appropriate occupational training needed. Using the SVP provided by ONET, the following duration times are recommended in addition to the participant’s past skill and experience.

<b>LEVEL</b>	<b>TIMEFRAME</b>
Level 1	<1 month
Level 2	1 month
Level 3	>1 month – 3 months
Level 4	>3 months – 6 months
Level 5	>6 months

Level 6	>6 months
Level 7	>6 months
Level 8	>6 months
Level 9	>6 months

**WIOA Incumbent Worker Funding Levels**

Employers participating in Incumbent Worker Training are required to pay the non-federal share (or employer share) of the cost of providing training to their incumbent workers per the sliding scale outlined below. A maximum of \$1,000 per trained worker is permitted under this policy. The NWPA Job Connect will consider exceptions to the cap on training funds and the reimbursement schedule below. The employer share may be provided in cash or in kind and may include the wages paid by the employer to a worker while the worker is attending the incumbent worker training program.

The level of reimbursement to the employer is determined by the employer size:

- 50 or fewer employees = 80% of the cost of training for the employer, up to \$1,000 per Incumbent Worker participant (WIOA requires employer to pay at least 10%)
- 51-100 employees = 60% of the cost of training for the employer, up to \$1,000 per Incumbent Worker participant (WIOA requires the employer to pay at least 25%)
- 101 or more employees = 40% of the cost of training for the employer, up to \$1,000 per Incumbent Worker participant (WIOA requires the employer to pay at least 50%)

Employer size is determined by the number of employees at the time of the execution of the Incumbent Worker Training contract.

Changes to the reimbursement schedule will be considered by the NWPA Job Connect for trainings in which the recipient receives an industry recognized credential, for employers utilizing IWT services for the first time, or for employers providing IWT in partnership with three or more additional employers.

**WIOA incumbent worker funds may not be used to pay for the wages of workers being trained.** Funds provided under this program may be used for the cost of providing the training, including the cost of developing the training or fees for the training program or training provider.

Employer Requirements

With assistance from WIOA Title I program services contractor staff, participating employers must guarantee that:

- All participants shall be provided benefits and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work. This will include unemployment compensation coverage where the employer is normally required to provide such coverage to its employees.
- The position provides the participant benefits per company policy (i.e. insurance, paid leave, profit sharing) other than those required by law.
- Employees who have financial responsibilities related to the receipt and disbursement of funding under the Agreement shall be covered by fidelity bonding.
- The training to be provided will be in accordance with WIOA 181(a)(1)(A) and 20 CFR 683.275 for wage and labor standards. Worker protection requirements are set forth in WIOA Sections 181(a)(1)(A) and (B), (b) (2), (3), (4), and (5) and 188.
- The employer agrees to cooperate with monitoring efforts as required by WIOA legislation and adhere to all other applicable local, state, and federal requirements.
- Funds are not used to directly or indirectly assist, promote, or deter union organizing.
- The employer agrees to respond to workforce system staff requests for wage and retention information of participants.
- The employer commits to retain the trained employees for a period of a minimum of six months following the completion of training. Failure to do so may result in the employer being ineligible to receive further NWPA Job Connect training funds for a minimum of one year.
- If the participating employer(s) has recently relocated, resulting in the loss of employment of any employee of such business at the original location in the U.S., incumbent worker training contracts may not be granted to the employer until after 120 days have passed since the relocation.

The following factors must be considered when determining the eligibility of employers to receive WIOA incumbent worker funds:

- 1) The strategy of the NWPA Job Connect in fulfilling the vision and goals established for the local area (i.e., the local plan)
- 2) The characteristics of the incumbent workers to be trained (i.e., the extent to which these individuals historically represent individuals with barriers to employment as defined in WIOA Section 3(24), and how such individuals would benefit from a skills gain that results in retention or advancement
- 3) The quality of the training (i.e., industry-recognized credentials, advancement opportunities, etc.)
- 4) The number of participants the employer plans to train or retrain
- 5) The wage and benefit levels of participants (before and after training)

- 6) 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 CWIA.

*Per WIOA Section 3(23): The term “in-demand industry sector or occupation” means:*

- (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 under this paragraph 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.*

- 7) Employer’s industry status. Is the employer in:
- An in-demand industry as defined by WIOA Section 3(23) and determined by CWIA labor market information; or
  - A stable industry as determined by CWIA labor market information; or
  - A declining industry, but there are compelling reasons (e.g., evidence of long-term viability of the employer) justifying investment in incumbent worker training
- 8) Recent lay-offs and relocations. The employer must not have laid off workers within 120 days to relocate to Pennsylvania from another state
- 9) Employer’s unemployment insurance and workers’ compensation taxes, penalties, and/or interest or related payment plan

**The factors that were considered in approving an incumbent worker training project with an employer must be justified and documented.**

#### Funding Exceptions

The NWPA Job Connect is aware that extenuating circumstances may require additional funding beyond the cap outlined in the policy and will consider exceptions based on employer input. Written requests for an exception should be submitted to the NWPA Job Connect.

#### **REFERENCE**

WIOA 181(a)(1)(A)  
20 CFR 680.770 – 680.840

## HISTORY

Name	Date	Rev. Level	Description of change	Effective Date
Deb O'Neil	04/11/2017	A	New separate policy from OJT and customized training	08/11/2017
Deb O'Neil	01/09/2019	B	Clarify language and add state policy requirement	02/08/2019