

## AREA 2 | SUMMIT & MEDINA WORKFORCE INNOVATION & OPPORTUNITY ACT (WIOA) POLICY LETTER C-10 | INCUMBENT WORKER TRAINING

- I. **SUBJECT:** Incumbent Worker Training (IWT)
  - II. **PURPOSE:** The purpose of this policy is to establish criteria and guidelines for offering Incumbent Worker Training to area employers.
  - III. **EFFECTIVE DATE:** October 1, 2018; May 1, 2021; June 23, 2021; November 12, 2021; February 1, 2022
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#### IV. BACKGROUND

Incumbent worker training (IWT) a type of work-based training model and is designed to either assist workers in obtaining the skills necessary to retain employment or to avert layoffs and must increase both a participant's and a company's competitiveness. Area 2 may use up to 20 percent of its local adult and dislocated worker formula funds for Incumbent Worker Training. The training should, wherever possible, allow the participant to gain industry-recognized training experience.

#### V. DEFINITIONS

**Incumbent Worker.** A worker employed with the company for at least six months when the incumbent worker training starts.

**Incumbent Worker Training.** Training 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 maintain or retain employment or have the opportunity for increased earnings potential through promotion.

**Layoff aversion.** A continuum of strategies targeted to specific employers or industries that are experiencing a decline and have the potential to undergo layoffs or are experiencing a serious skills gap that impacts their ability to compete and retain workers. A layoff is considered to be averted when:

1. A worker's job is saved at an existing employer facing a risk of downsizing or closing; or
2. A worker at risk of dislocation faces a brief gap of unemployment when transitioning to a different job with the same employer or is hired at a new job with a different employer.

## VI. REQUIREMENTS

IWT is a business service designed to develop a highly skilled workforce which will result in increased business financial viability, stability, competitiveness, and productivity. To avert the risk of closing, IWT may be developed with a business or business association to maintain their competitive status, incorporate new technology, or prevent downsizing.

Workers participating in IWT will benefit by enhancing existing skills, learning new skills, and earning employer or industry recognized credentials, in addition to retaining employment, maintaining their careers, and/or increasing their earnings potential. IWT will also allow the opportunity for backfilling vacated positions resulting from the promotion of newly trained workers.

### ***Types of Incumbent Worker Training***

IWT is restricted to skill attainment activities. The training should benefit workers by making them more qualified in their line of business and/or by providing them with skills for new products or processes. It is desired that the training results in credentials or industry recognizable skills that promote the worker's career and increases the overall employability.

Allowable types of training for incumbent workers:

1. Skills upgrading and retraining: short-term training that enhances occupation-specific skills or basic skills that lead to a credential or certificate.
2. Customized training: customized training is conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of training.
3. Occupational skill training (Individual Training Accounts): Training that leads to an industry recognized credential or a certificate.

### ***Training Provider Contract***

In order for IWT services to be provided and subsidized with WIOA, an executed training contract is required between Area 2, the Employer, and the training provider. A sample contract is attached as **Exhibit A**.

## VII. ELIGIBILITY

### ***Eligibility for Participating Businesses/Employers***

IWT is one of many business services offered in Area 2. The criteria which Area 2 must take into account for an employer to be eligible to receive local incumbent worker funds include:

1. The characteristics of the participants in the program;
2. The relationship of the training to the competitiveness of a participant and the employer;  
and
3. Other factors Area 2 determines appropriate, including number of employees trained, wages and benefits including post training increases, and the existence of other training opportunities provided by the employer.

There are also businesses that should not participate in this activity due to past or current violations of local, state, or federal law; unfair labor practices; and other conditions identified during the course of conducting initial employer assessments and reviewing contract requirements, assurances, and certifications with the local WDB director or staff. Businesses that fail to meet any of the following qualifying criteria are not eligible to receive funds for Incumbent Worker Training:

1. Businesses must not be presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in transactions by USDOL or the State of Ohio. Tax, environment compliance, and debarment status will be checked using the following resources:
  - a. Federal Debarment Site: <https://www.sam.gov>
  - b. Ohio Department of Taxation: <http://www.tax.ohio.gov>
  - c. Business Filing Search: <http://www.sos.state.oh.us>
2. Businesses must not have any outstanding tax liability for over six months to the state of Ohio. Local workforce development boards (WDB) or CCMEP lead agencies must require the businesses to disclose any known outstanding tax liabilities with Ohio and other states prior to entering into the contract. The local WDB or CCMEP lead agencies may consider existing out-of-state violations when determining eligibility to receive IWT funds. The local WDB or CCMEP lead agency must document any resolution of outstanding tax liability, which may include letters from the business or from the State from which the tax liability occurred.
3. Businesses must not have any outstanding civil, criminal or administrative fines or penalties owed to or pending in the state of Ohio.
4. Businesses must ensure that they are not on the most recent list established by the Ohio Secretary of State that would identify them as having more than one unfair labor practice contempt of court finding.
5. Ohio businesses must have all of the approvals, licenses, or other qualifications needed to conduct business in the state and all must be current. Should this status change during the course of the local IWT program activities and the business is disqualified from conducting business in Ohio, all training under the IWT program must cease.
6. Governmental entities, including the city, county and state, may not participate in the local IWT program. Health care providers that are operating as not-for-profit entities are the only allowable exceptions to this prohibition.
7. Businesses that have relocated to Ohio and have laid-off workers at their former location in the United States may not be considered for this program until they have been in operation at the new location for 120 days. To verify that a business is not relocated employment from another area, a pre-award review is undertaken and documented by Area 2. This review includes the names under which the establishment conducts business, including predecessors and successors in interest, the name, title, and address of the company official certifying the information, and whether WIOA assistance is being sought in connection with past or impending job losses at the facilities of their company. The pre-award review also includes a review of whether appropriate notices have been filed, as required by the Worker Adjustment Retraining Notification (WARN) Act. The review may also include consultations with labor organizations and others in the local area.

***Local Area Employer Requirements***

Area 2 provides here additional requirements in order for the employer to qualify for IWT. To be approved for IWT, an employer must agree that the end wage for every member of the trained cohort of employees must meet one of the following criteria:

1. Be at or above \$13.00 per hour; or
2. Meet the O\*NET online occupation code 10<sup>th</sup> percentile wage for the employer's zip code if that wage is higher than \$13.00 per hour.

When IWT funding is limited, preference is given to employers in in-demand industries.

***Eligibility for Incumbent Workers***

To qualify as an incumbent worker, the worker needs to be 18 years or older, maintain US citizenship status and/or proof of eligibility to work in the US, meet the Fair Labor Standards Act requirements for an employer-employee relationship, and have established employment history with the employer for six months or more. (NOTE: If IWT is being provided to a cohort of employees, not every employee in the cohort must have an established employment history with the employer for 6 months or more if the majority of employees being trained meets the employment history requirement.) An incumbent worker does not necessarily have to meet the eligibility requirements for career and training services for Adults and Dislocated Workers under WIOA.

***Procurement of the Training Provider***

Incumbent Worker Training may be provided through individual ITAs or through an IWT training contract for services. If the training is provided through an individual ITA – appropriate for a very small cohort only – all requirements of such ITA must be followed, including the use of local-approved eligible training provider and WIOA eligibility for the trainee. For an IWT contract, training providers do not necessarily need to appear on the Area 2 local approved training provider list if the training provider is listed in the Workforce Inventory of Education and Training (WIET) database, however, Area 2 maintains the right to decline to utilize any training provider with unsatisfactory performance or low training completion or job placement rates. Additionally, the training facility should provide an environment that supports learning and be within reasonable proximity to the trainees, so the cost and time required for travel is minimized.

**VIII. ALLOWABLE COSTS AND BILLING**

Allowable costs may include only costs directly related to training. Allowable costs may include:

1. Instructor/trainer salaries;
2. Curriculum development, textbooks, manuals, training software, materials and non-consumables; and
3. Other necessary and reasonable costs directly related to training.

Unallowable costs include but are not limited to:

1. Foreign travel;
2. Purchase or lease of capital equipment;
3. Encouragement or inducement of a business or part of a business to relocate from any location in the United States; and/or
4. Use of IWT funds to pay for a worker's training wages.

### ***Cost Sharing Requirements***

Employers participating in the IWT shall be required to pay for the non-WIOA share of the cost of providing the training to incumbent workers of the employers. The WDB has established the non-WIOA share of such cost, taking into consideration such other factors as the number of employees participating in the training, wage and benefit levels of the employees, 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 non-federal share shall not be less than:

1. 10 percent of the cost, for employers with not more than 50 employees;
2. 25 percent of the cost, for employers with more than 50 employees but not more than 100 employees;
3. 50 percent of the cost, for employers with more than 100 employee but not more than 250 employees; and
4. 75 percent of the cost, for employers with more than 250 employees but not more than 500 employees.

For example, for an IWT program with an employer with 75 employees, the training provider would invoice Area 2 for 75% of the cost of the training and invoice the employer for 25% of the cost of the training – regardless of the size of the actual training cohort.

For employers with more than 500 employees, IWT may be approved on a case-by-case basis by the Area 2 Executive Director. If approved, the non-federal share shall not be less than 75%.

## **IX. REPORTING AND MONITORING**

The Area will conduct oversight and monitoring of the implementation of all WIOA programming by all service providers pursuant to **Area 2 Policy Letter A-08 Monitoring and Compliance**. Any issues discovered will be handled through the area’s monitoring resolution process.

The WIOA career services provider shall monitor all IWT plans. A WIOA career services provider’s monitoring of IWT shall at a minimum include all of the following:

1. Review all applicable statutes as required for a complete monitoring review.
2. Complete a final Monitoring Report with special attention to the following:
  - a. Completely review the agreement, and any/all modifications;
  - b. Review time and attendance;
  - c. Conduct an employer interview to accurately answer the report questions; and
  - d. Make sure all required signatures are obtained.

## **X. REFERENCES**

1. Area 2 WIOA Policy Letter A-08 Monitoring and Compliance
2. Area 2 Policy Letter C-05 Use of Individual Training Accounts
3. ODJFS WIOA Policy Letter 15-23.1 Incumber Worker Training Guidelines
4. ODJFS WIOA Policy Letter 15-09.1 Training Services for Adults and Dislocated Workers
5. WIOA Public Law 113-128