

T-07 Incumbent Worker Training

Board Approved Updates: 6.14.18

Board Approved Updates on 6.15.17

Board Approved on 3.10.16

Purpose

To establish local policy for providing services to incumbent workers under federal and state grants and the Workforce Innovation and Opportunity Act (WIOA) to identify the requirements for One Stop Operators and service providers to adhere to in providing such services to adults, dislocated workers, and youth.

Background

The Incumbent Worker Training (IWT) program provides both employees and businesses with the opportunity to build and maintain a quality workforce. The IWT program can be used to help avert potential layoffs of employees, or to increase the skill level of employees so they can be promoted within the company and create backfill opportunities for the company.

To qualify as an incumbent worker, the employee must:

- be directly employed by the company for a period of no less than 6 months
- be at least 18 years of age,
- work at least 32 hours per week,
- earn an hourly wage above the state minimum wage,
- agree to cooperate with the data collection requirements, and
- meet the Fair Labor Standards Act requirement for an employer-employee relationship.

The training must satisfy the requirements of WIOA and other federal grant regulations and increase the competitiveness of the employee or business. 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.

Policy

The WOW Board supports the use a maximum of 20 percent of the funds allocated under section 133(b) [Adult Employment and Training Activities and Dislocated Worker Funds] to pay for the program cost of providing training through a training program for incumbent workers base upon eligibility [per WIOA section 134 (d)(4)(A)(i)].

Agreements with businesses regarding worker training must be in writing and must ensure that all participants are provided a structured training opportunity by which to gain the knowledge and competencies necessary to retain employment and avoid lay-offs.

Business Eligibility Criteria:

The IWT Program does not limit the kinds of training that businesses may request. Training may include industry or business-specific skills, technical and computer skills, and/or “soft skills,” such as leadership and management training.

An eligible business for the Incumbent Worker Training program must:

- be in continuous operation for the 12 months immediately prior to the application submittal,
- trainings must coincide with the most recently approved WOW WDB Occupations Projections List to demonstrate a link to in-demand occupations found in policy T-02;

- demonstrate training will not only improve the skills of employees but also improve the business's processes and competitiveness and/or avert a layoff,
- demonstrate training will result in an industry recognized certificate or credential,
- agree to cooperate with the data collection requirements, and
- if participated in the past, have a successful history with IWT's and all requirements.

Where a union bargaining agreement exists and is applicable to the training for the employee, the IWT program must not conflict with that agreement. The business must obtain written concurrence of the bargaining unit. Written concurrence must be submitted with the IWT application in order for the contract to be reviewed for approval. Funds provided to businesses for the IWT program must not be used to directly or indirectly assist, promote or deter union organizing.

An IWT contract will only be written with a business that meets the above requirements.

IWT program funds are limited, and are therefore awarded as funds are available. The maximum award amount may not exceed \$10,000 per business per program year and the initial training agreement duration may not exceed 16 weeks.

**maximum award may be adjusted based upon funding availability each program year.*

Other factors for consideration when determining eligibility of a business to receive IWT program funds includes:

- the characteristics of the employee participating in the training,
- training is for a group of businesses, but not required,
- training is for a group of employees and not individual training at the business, although number of employees in the company will be taken into consideration,
- training is provided by a registered training provider, but not required,
- training completion will result in a wage increase and/or promotion resulting in an open position, [per WIOA section 134 (d)(4)(A)(ii)], and
- such other factors as the local board may determine to be appropriate, which may benefit levels of those employees (at present and anticipated upon completion of the training), and the existence of other training and advancement opportunities provided by the business [per WIOA section 134 (d)(4)(A)(ii)].

The Governor or State board may also make recommendations to the local board for incumbent worker training that has a statewide impact (per WIOA section 134(d)(4)(A)(iii)).

The training activities for incumbent workers shall be carried out by the Board in conjunction with the businesses or groups of businesses of incumbent workers (which may include businesses in partnership with other entities for the purposes of delivering training) for the purpose of assisting such workers in obtaining the skills necessary to retain employment or avert layoffs [per WIOA section 134(d)(4)(B)].

Businesses Responsibility:

Business(es) must complete an Incumbent Worker Training Program application to be considered for a grant. It is the business's responsibility to submit any changes to the conditions set forth in the application before the start date indicated in a signed contract. Failure to notify Contractor will result in a terminated contract (*see details under early contract termination or abuses*).

IWT program funds will be used to reimburse businesses providing incumbent worker training on a graduated scale based on the size of a business. Such participating employers must pay the remaining share of the costs not covered by WIOA or other federal grant program funds for providing such training [per WIOA section 134(d)(4)(C)].

The local board shall establish the business' share of cost, taking into consideration factors such as 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 [per WIOA section 134(d)(4)(D)(i)].

For business' share of cost, a sliding scale has been established based on the Wisconsin business size (i.e., not based on nationwide employer size) where the incumbent worker training will be provided and results of the training.

	Reimbursement Based Upon Receiving One or More of the Following: 1) Credential, 2) Wage Increase, and/or 3) Promotion*		
Business Size	1	2	3
<input type="checkbox"/> 100 or Fewer Employees	<input type="checkbox"/> 50%	<input type="checkbox"/> 65%	<input type="checkbox"/> 75%
<input type="checkbox"/> More than 100 Employees	<input type="checkbox"/> 25%	<input type="checkbox"/> 40%	<input type="checkbox"/> 50%

**Promotion that results in an open position to be backfilled.*

Business(es) will keep accurate records of the project's implementation process and certify that all information provided, for the purpose of requesting reimbursements and reporting training activity, is accurate and true, including evidence that the business has paid the training expenses in accordance with the terms of the agreement prior to requesting reimbursement of allowable training costs.

All IWT grants are subject to WIOA and other federal grant reporting requirements and performance standards. The business must submit copies of all credentials, certificates of completion, or other documentation of the employee's participation within 30 days of the end of training to be considered eligible for reimbursement. Other criteria such as proof of wage increase or promotion that resulted in an open position is required, if applicable.

Restrictions:

Funds provided under WIOA cannot be used to pay the wages of incumbent worker employees during their participant in an economic development activity provided through a statewide workforce development system [per WIOA section 181(b)(1)].

When a relocation of a business results in the loss of employment of any employee of such business, no funds provided for employment training can be used for incumbent worker training until after 120 days has passed since the relocation that caused the loss of employment at an original business location in the United States [per WIOA section 181 (d)(1)].

Funds will not be used to cover training supplies, employer wages, books, etc.

Businesses administering a current Wisconsin Fast Forward and/or Workforce Advancement Training (WATS) grants, or similar grants, are not eligible to receive IWT funds.

An IWT contract to train an employee while employed through a temporary employment agency is not allowed. IWT may be utilized with an established business to train an employee that has been employed by the company for a period of no less than 6 months.

Examples of Acceptable Trainings:

- Training to gain or maintain an industry recognized certificate/credential.
- CD-10 training – training that teaches coding professionals how to become proficient in the ICD-10-CM and ICD-10-PCS coding or other similar systems.
- Training for improved process efficiency as identified by industry professionals.
- Training from a national, regional, or state trade association that offers an independently certified training curriculum and testing.
- Training provided in conjunction with the purchase of a new piece of equipment.
- Upgrade of computer skills (e.g., Microsoft Excel, Access).
- Seminars/workshops/webinars are eligible, however, they must have an assessment or “test” tied to it to be eligible for this program. Businesses must indicate in the application what assessment of skills is included for this type of training to justify it will improve economic competitiveness. Failure to include this may exclude the application from consideration.
- English Language Learning for managers or staff to enable them more effectively communicate with limited English employees.

Examples of Unacceptable Trainings (this is not a definitive list):

- Required/regulatory training – training mandated by any other public agency or department is not eligible. These trainings may include, but are not limited to, EPA, Hazardous Waste, FDA, Workers Compensation, OSHA, etc.
- Training which would result in advanced degrees such as associate, bachelor, master, or doctorate.
- IWT already being reimbursed by another state or federal training program (e.g., Other Workforce Development Boards, National Emergency Grants, etc.).
- Employee travel, food, or lodging costs related to program participation.
- Wages of trainees while being trained.
- Purchases of capital equipment or other durable (long lasting/reusable) training materials/equipment.
- Training in sectarian activities.

Early Contract Terminations and Program Abuses:

Background

The Incumbent Worker Training (IWT) program provides both employees and businesses with the opportunity to build and maintain a quality workforce. The IWT program can be used to help avert potential layoffs of employees, or to increase the skill level of employees so they can be promoted within the company and create backfill opportunities for the company.

Businesses are reimbursed once training is successfully complete and based on attainment of certificate or credential, wage increase, and/or promotion that results in an open position to be backfilled.

IWT Abuses

DOL has an expectation that the Boards put safeguards in place to protect IWT funds from potential abuses by businesses. Abuses could take the form of businesses not screening their employee’s appropriately and using the IWT as a screening tool for wage increase or a promotion, as there is little financial impact to the employer with training reimbursement.

In order to be considered for more than one IWT in a fiscal year, businesses cannot have more than two (2) instances of early contract termination. In addition, early termination on the second contract will result in a 25% reimbursement rate reduction from the original reimbursement percent.

Early Contract Termination

A business will be ineligible for additional contracts if within the past two (2) years had two (2) or more of the following occur:

- Not provided verification of certificate or credential, a wage increase, and/or promotion that resulted in an open position as agreed upon in contract.
- Not submitted any changes to the conditions set forth in the IWT application before the start date indicated in a signed contract.
- Terminated contract without just cause.

A business that is determined ineligible will remain so for up to one year from the date of which the latest IWT contract was terminated.

Example: Contract 1 in fiscal year: Contract terminates early. Original reimbursement 75%. Reimbursement is still 75%. Contract 2 in fiscal year: Contract terminates early. Original reimbursement 75%. Revised reimbursement is $75\% - 25\% = 50\%$ and no more IWTs for the fiscal year.

Definitions

Incumbent worker – An individual who is employed, meets Fair Labor Standards Act requirements for an employer-employee relationship, and has an established history with the employer for 6 months or more. – Per §680.780

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. The training is conducted with a commitment by the employer to retain or avert the layoffs of the incumbent worker(s) trained. – Per §680.790

In-Demand Industry Sector or Occupation – In general:

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

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.