

## INCUMBENT WORKER TRAINING

### Workforce Innovation and Opportunity Act Policies and Procedures

EFFECTIVE DATE: April 29, 2022

POLICY #: P206

#### I. PURPOSE:

This policy addresses eligibility criteria for incumbent workers and employers, requirements for incumbent worker training programs, and cost sharing requirements for incumbent worker training projects when utilizing Workforce Innovation and Opportunity Act (WIOA) Title I formula funds.

#### II. BACKGROUND:

For businesses to remain competitive in Seattle-King County's thriving economy, a well-trained workforce that is up to date on industry-recognized skills is necessary. The Workforce Innovation and Opportunity Act's (WIOA) Incumbent Worker Training (IWT) program provides funding for continuing education, training, and upskilling of incumbent, or existing employees. It is designed to increase local businesses' competitiveness, avert potential layoffs, and/or upskill/backfill workers for existing Seattle King County businesses. It is primarily intended for workers who (i) have experienced a change in the necessary skills required to remain in their position, (ii) wish to advance in the company, or (iii) to avoid layoff.

Under WIOA Section 134 (d) (4), local boards may reserve/expend up to 20% of the combined adult and dislocated adult and dislocated worker formula funds, for incumbent worker training.

Per WIOA Section 134 (a)(3)(A)(i), the State may use state Rapid Response funds for layoff aversion and WIOA Governor's discretionary funds for statewide incumbent worker training activities.

#### III. DEFINITIONS:

- A. **Incumbent Worker** – An individual who is employed, meets Fair Labor Standards Act requirements for an employer-employee relationship, and has an established employment history with the employer for 6 months or more. 20 CFR § 680.780
- B. **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 and conducted with a commitment by the employer to retain or avert laying off incumbent worker(s) that are trained in order to increase the competitiveness of the employee and/or employer.
- C. **In-Demand Industry Sector or Occupation** – In general,
  - 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, based on the Self-Sufficiency Calculator and opportunities for advancement) in an industry sector so as to have a significant impact on the state, regional, or local economy, as appropriate.
    - a. A substantial/significant current or potential impact relates to the relative size and importance of the industry or occupation in terms of the number of jobs it maintains/produces, its role in supply chains, its financial impact on the local economy, and/or the quality of jobs related to the industry including opportunities to advancement.
  - iii. The determination of whether an industry sector or occupation is in-demand 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. [WIOA Section 3(23)]

**Layoff Aversion** – A layoff is averted when: 1) a worker’s job is saved with an existing employer that is at risk of downsizing or closing; or 2) a worker at risk of dislocation transitions to a different job with the same employer or a new job with a different employer and experiences no time or a minimal time on unemployment.

### **Incumbent Worker Training Outcome**

Incumbent Worker Training is a shared investment in workforce development which benefits employees and employers within key industries. To ensure training quality, training outcomes are defined as but are not limited to: increased productivity, reduced waste, earnings gains, job retention, layoff aversion, certification/licensing, close skill gaps, job advancements, return on investment, cost savings, increased profits, progress toward skill standards, new skill transferable across industries, introduction of new technologies, and new job creation (upskill/backfill).

### **Individuals with Barriers to Employment**

WIOA Sec.3(24) and 20 CFR 680.320(b)

- Displaced Homemaker
- Low-Income Individuals
- Indians, Alaska Natives and Native Hawaiians
- Individuals with disabilities
- Older Individuals
- Individuals who have exited the criminal justice system
- Homeless Individuals
- Youth who are in or have aged out of the foster care system
- Individuals who are English language learners, low levels of literacy or facing substantial cultural barriers
- Eligible migrant and seasonal farm workers
- Individuals within 2 years of exhausting lifetime eligibility under Part A Title IV of the Social Security Act
- Single parents (including pregnant women)
- Long-term unemployed

## IV. POLICY:

- A. Allocation:** The WDC will not reserve or expend more than 20% of combined WIOA Title I adult and dislocated worker formula allotments for incumbent worker training, not including any WIOA resources provided to the Seattle-King County region for incumbent worker training through state Rapid Response funds or Governor's discretionary funds.
- B. Applicability:** The requirements of this policy apply to all incumbent worker training supported with the sources identified in section IV. A, unless otherwise directed by the funder.
- C. Cohorts:** Incumbent worker training may be offered to a single incumbent worker, a cohort of incumbents working for the same employer, or a cohort of incumbents working for multiple employers as long as the worker and employer eligibility criteria and cost sharing requirements in this policy are met.
- D. Employer Share of Training Costs:** Employers who wish to participate in incumbent worker training are required to pay the non-WIOA (non-federal) cost of providing training to their incumbent workers. The employer share is based on the size of the workforce at the location(s) where incumbent worker training has been deemed necessary. When incumbent worker training is being provided for a group of employers, each employer's size and share of the training costs is determined separately.
1. Each employer's share is determined as follows:
    - At least 10 percent of the cost for employers with 50 or fewer employees.
    - At least 25 percent of the cost for employers with 51 – 100 employees.
    - At least 50 percent of the cost for employers with more than 100 employees.
  2. Wages paid to incumbent workers by their employer while in training can be included as part of their share and their share can be provided as cash or in-kind contribution that is fairly evaluated based on the rules for matching funds in the Uniform Guidance regulations at 2 CFR 200.306 and 2 CFR 2900.8.
  3. Per WIOA Section 181 (b)(1) and 20 CFR 683.250(a), WIOA Title I fund cannot be spent on the wages of incumbent employees during their participation in IWT. Incumbent worker wages paid by the employer during IWT cannot be included in the cost of training.

The Council will track and document employer cost share contributions.

- E. Training:** 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). If in-house training is provided, it must be for training to support new skills that will make the employer more competitive or avert layoffs.
1. **Procurement of Training:** The WDC will utilize procurement rules for contracts with training vendors for the purposes of incumbent worker training, as defined in [WDC Policy – Purchasing and Procurement](#). This criterion cannot be designated to a service provider.

## 2. Employer Secured Training:

- i. When in-house training is provided by an employee of the employer, the reimbursement amount is based on the employer share calculation. For example, the employer purchases new machinery, but now must train staff in its use. One employee has been trained to use it, and has the capacity and skill to train others, but calculations indicate it will be costly to devote that employee to the task because they would not be able to perform their own job while training staff. That employee's wages when providing the training would be included in the cost of training, and therefore, part of the cost share calculation.
- ii. When the training provider is secured by the employer, procurement is not required. The LWDB enters into an agreement with the employer to reimburse for the WIOA federal share cost of the training. The agreement with the employer must document at a minimum:
  - a. The training being provided.
  - b. That the cost is reasonable for what is being provided; and
  - c. The approximate dollar amounts, both paid by the employer and paid by the WDC for the federal share.

## F. Incumbent Worker Training with Local Formula Funds –

1. **Incumbent Worker Eligibility Criteria:** Unlike with other training services, incumbent workers do not have to meet the eligibility criteria for adults or dislocated workers to receive incumbent worker training. The following are eligibility criteria an employee must meet to be considered an incumbent worker and receive incumbent worker training services:
  - i. Must be Employed (be an individual on the employer's payroll); and
  - ii. Meet the Fair Labor Standards Act requirements for an employer-employee relationship; and
  - iii. Must 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.
  - iv. Per 20 CFR 680.780, incumbent workers do not have to meet the eligibility requirements for career and training services for adults and dislocated workers unless they also are enrolled as participants in the WIOA Title I Adult or Dislocated Worker programs.
    - a. Individuals enrolled in IWT program are not participants and their services do not trigger participation for reporting on federal measures.
    - b. Individuals enrolled in IWT programs are not eligible to receive support services unless they meet eligibility for and are co-enrolled in either the WIOA Title I adult or dislocated worker programs and receive a qualifying career service or training service.
2. **Employer Eligibility Criteria:** The following factors are specific eligibility requirements the

employer must meet to participate in the Incumbent Worker Training Program.

The employer must document:

- i. **Need for Training:** Incumbent Worker Training will increase the employers' ability to create and/or retain jobs or fill critical job openings.
- ii. **Quality of the training/opportunities for advancement:** Training that will lead to or provide industry-recognized credentials and/or advancement opportunities.
- iii. **Quality of Occupations:** Training is for occupation(s) that are in demand as defined by WIOA Section 3(23) and as determined by workforce area-specific labor market information produced by ESD (listed on the [Occupations in Demand Listing](#).)
- iv. **Types of Trainees:** Trainees are individuals with barriers to employment as defined in WIOA Section 3(24) and/or low income/underemployed who will benefit from retention or advancement.
- v. **Number of Trainees:** The number of participants the employer plans to train or retrain.
- vi. The wage and benefit levels of participants (before and after training).

The employer:

- a. Is in an in-demand industry as defined by WIOA Section 3(23) as determined by ESD labor market information; or
- b. Is in an in-balance industry as determined by ESD labor market information. Or
- c. Is in a declining industry, but presents compelling reasons (e.g., evidence of long-term viability of the employer) justifying investment in incumbent worker training.
- d. Must not have laid off workers within 120 days to relocate to Washington from another state.
- e. Must be current in unemployment insurance and workers' compensation taxes, penalties, and/or interest or related payment plan.

The WDC will document the factors that were considered in approving an incumbent worker training project with an employer.

## V. PROCEDURE

### A. Key Operating Standards:

- i. Each program year (July 1<sup>st</sup> – June 30<sup>th</sup>), the Workforce Development Council of Seattle King County shall determine an amount of adult/dislocated worker formula funds to be reserved/expended for incumbent worker training subject to performance results (annual report) and budget considerations.
- ii. Incumbent Worker Training Applications will be open and competitive each program year (July 1<sup>st</sup> – June 30<sup>th</sup>), or until all funding is exhausted. Applications will be reviewed and awarded on a quarterly basis (January, April, July, and October), and responded to within 30 days after the end of a quarter. Employers can only be awarded once during the program year.
- iii. Incumbent worker training will be prioritized for business and employees from key

Industry Sectors identified in the Council's WIOA Strategic Plan. However, the Council will consider other opportunities with industries/companies to avert layoffs, address skill shortages or to assist emerging industries.

- iv. The Council's incumbent worker training dollars are best leveraged when working with industry partnerships, associations, consortiums, round tables and where training projects benefit more than one company. The Council will give priority to projects working with industry partnerships for multi-company training.
- v. WIOA requires a minimum company match from participating employers of 10%-50% depending on the size of the company. Whenever possible, the Council will capture 100% company match (cash or in-kind or a combination). Company match can be satisfied with the cost of wages/benefits paid to the employee/trainee while in training. The Council will track and document employer cost share contributions. See Section B. Employer Share of Training Costs.
- vi. A tagline for Council funded incumbent worker project material (written or electronic) indicating "This training project was sponsored by the Workforce Development Council of Seattle King County" will be required.
- vii. The Council will review and determine funding on incumbent worker training proposals received through Incumbent Worker Training Applications.

## **B. Application Process**

The review committee only reviews applications once a quarter (January, April, July and October). Thus, an Incumbent Worker Training Application will not be accepted for training that has already occurred or eminently occurring. For example, if an application was submitted on January 5<sup>th</sup>, the application will not be reviewed until April.

Forms required at submission are the

- i. Incumbent Worker Training Application,
- ii. Incumbent Worker Training Budget and Match Worksheet
- iii. Course description and/or curriculum.

## **C. Review Process**

Incumbent Worker Training Applications will be reviewed and awarded on a quarterly basis (January, April, July, and October), and responded to within 30 days after the end of a quarter. Thus, an Incumbent Worker Training Application will not be accepted for training that has already occurred or eminently occurring. For example, if an application was submitted on January 5<sup>th</sup>, the application will not be reviewed until April.

The process will include the following:

- a. Incumbent Worker Training Applications submitted via email.
- b. If the request for funds is over \$10,000, see Section IV E. Training.
- c. Staff will provide the WDC Vendor Selection Form (if applicable), WDC Staff Scoring Sheet and the Committee Scoring Sheet to review committee. Majority must approve in order to award.
- d. Staff will notify the applicant of the committee's decision via email.

#### D. Industry Training Service Contract – Incumbent Worker Training Agreement

The WDC's Incumbent Worker Training program requires multiple forms of documentation to comply with our funding source which includes the release of personal identifying information, including social security number and date of birth. All personal identifying information will be kept secure. If these items are not received the SCWDC will withhold reimbursement of the training.

An Industry Training Services Contract must be executed with the entity who submitted the Incumbent Worker Training Application.

Once the Industry Training Services Contract is executed the Employer will need to complete:

1. Incumbent Worker Training Before and After Training Trainee List
2. Incumbent Worker Match Report

Furthermore, each employee participating in the training must complete the following **before training begins**:

1. Incumbent Worker Training Employee Application, includes the employee's date of birth
2. Release of Information, includes the employee's social security number
3. Create a WorkSource WA account at [www.worksourcewa.com](http://www.worksourcewa.com)

#### E. At the Conclusion of Training

The Employer is required to provide for each training a class roster and all certifications, licenses, certificates of completion, etc. If these are not received reimbursement will be withheld until received.

## VI. DOCUMENTATION AND DATA ENTRY REQUIREMENTS

The WDC is responsible for ensuring that the data entry and documentation requirements below are met except when a service provider is specifically designated for this task by the WDC. Incumbent workers being served through an IWT strategy are not required to meet WIOA Adult or Dislocated Worker eligibility requirements, unless they are co-enrolled as participants in one of these programs. Unless they are enrolled in the Adult or Dislocated Worker program, they are not participants for the purpose of inclusion in WIOA performance indicator calculations for state outcomes. However, states and local areas are still required to report certain data elements on all individuals who receive only incumbent worker training.

**A. Incumbent Worker Training Agreement:** Incumbent worker training requires an agreement between the WDC (or designated service provider) and the employer. Incumbent worker training funds may not be expended, and incumbent worker training may not start until a completed agreement is in place and signed by all relevant parties. The training agreement must document the following information:

1. The date the agreement is entered into and names and signatures of authorized representatives from the WDC, each employer, and each service provider (when designated);

2. Contact information for the WDC, each training provider, each employer, and each service provider (when designated);
3. Information regarding the type of training, total training hours, start date, estimated completion date, and outcome.
4. All incumbent worker eligibility requirements described above;
5. All employer considerations and eligibility requirements described above;
6. Summary of costs associated with the training, including but not limited to: tuition, registration fees, books, and educational supplies;
7. Summary of funding sources to be used to fund the training and each employer's share of the training costs, including any fairly evaluated in-kind contributions;
8. Assurances for the WDC, each employer, and each service provider (when designated), which must include at a minimum:
  - a. Each entity shall ensure its agents and employees and any members of its governing body avoid any actual, potential, or appearance of conflict of interest with involved parties;
  - b. Each entity shall ensure none of its activities discriminate against, deny benefits to, deny employment to, or exclude from participation any persons on the grounds of race, color, national origin, sex, disability, or political affiliation or belief; and
  - c. Each entity will ensure grievances and/or discrimination complaints are referred to the appropriate entity for resolution.

**B. Assessment:** The WDC or designated service provider must determine a need for incumbent worker training services through an assessment with the employer (see Employer Considerations above):

1. This determination must be documented and stored physically or electronically in the employer's file.
2. Accompanying labor market information demonstrating that the employer or group of employers represent in-demand industry sectors or occupations in the local area is required.

**C. WIOA Registration:** The WDC or designated service provider must ensure:

1. Basic WIOA registration in WST is completed for an individual to receive incumbent worker training services. Additionally, any relevant documentation must be collected and stored physically or electronically in the individual's file.
2. Basic WIOA registration in WST is completed for an employer to receive incumbent worker training services; any relevant documentation must be collected and stored physically or electronically in the employer's file.

**D. Additional Data Entry Requirements:** The WDC or designated service provider must ensure:

1. The employer and the start date of the incumbent worker training is entered into WST. This is entered in place of the employer of dislocation and the date of dislocation.
2. Each incumbent worker is enrolled in the program representing the fund source of the training.
3. An incumbent worker training service is entered into WST to represent the training for each incumbent worker and the employer. For incumbent workers, this service will not begin or extend participation unless the seeker is also enrolled in a program subject to



- participation requirements. As a stand-alone service, incumbent worker training is exempt from participation and performance.
4. This service documents the start and estimated end date of the training as appropriate. When the training ends and a credential is obtained (if applicable), this is to be used as the end date of this service.
  5. Case notes are entered detailing the start of the training, progress during training, and the outcome of the training for each incumbent worker and each employer.

## **VII. REFERENCES:**

- State ESD WIOA Policy 5607, Rev 3
- Federal Register - 20 CFR 680.200, 680.780, 680.790, 680.800, 680.810, and 680.820
- Federal Register – 29 CFR Part 38 et al
- Federal Register – 2 CFR 200 et al
- WIOA Sections 134(c)(3) and 134(d)(4)
- WIOA Sections 3(23) and 3(24)
- Fair Labor Standards Act of 1938, as amended
- Americans with Disabilities Act of 1990