



**Workforce
Development
Council**

Benton-Franklin Workforce Development Council Workforce Innovation and Opportunity Act (WIOA)

Subject: Incumbent Worker Training Policy

Policy No: 2015-08

Effective Date: 06/28/2016

1. Purpose:

To clarify the criteria to determine which workers, or groups of workers, are eligible for incumbent worker services and the cost sharing required for incumbent worker training projects (WIOA Section 134(d)(4)).

2. Background:

Incumbent worker training is designed to increase the competitiveness of the employee and employer. Per WIOA Section 134(d)(4)(A)(i), the Benton-Franklin Workforce Development Council (BFWDC) may reserve and expend up to 20 percent of their combined adult and dislocated worker formula allotments 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.

Operational Procedure

A. Incumbent Worker Eligibility Requirements

WIOA recognizes that employed workers may also require help in order to obtain or retain jobs that lead to self-sufficiency. An incumbent worker must be:

1. A U.S citizen or otherwise legally entitled to work in the U.S;
2. Age 18 or older;
3. Registered for the Selective Service (males who are 18 or older and born on or after January 1, 1960) unless an exception is justified;
4. Employed;
5. Meet the Fair Labor Standards Act requirements for an employer-employee relationship www.dol.gov/whd/flsa; and
6. Have an established employment history with the employer for six (6) months or more.

An incumbent worker does not necessarily have to meet the eligibility requirements for career and training services for adults and dislocated workers.

B. Incumbent Worker Training

Incumbent worker training is developed with an employer 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. An incumbent worker must demonstrate the following:

1. Evidence that the training satisfies the requirements of WIOA section 133(b)(4);
2. Demonstration of linkages of the training activity to demand occupations and targeted industries;
3. The positive relationship of the training to the competitiveness of a participant and the employer;
4. The relative wage and benefit levels of those employees (pre-training and anticipated upon completion of the training).

Strategies for developing new workforce skills in the existing workforce shall be designed to benefit business and industry in ways that encourage and support the integration of new technology and business processes, increase employee productivity and support the competitiveness of the company. Incumbent worker training creates a number of positive outcomes including:

1. Improving the alignment of existing workers' skills with new job requirements;
2. Providing individuals access to new career opportunities within a business;
3. Encouraging the retention of existing personnel who otherwise may become dislocated because of skills deficiencies and increasing the wages of newly trained workers;
4. Creating new opportunities for entry-level workers through the promotion of existing workers; and supporting the overall enhancement of local and regional economic development efforts.

C. Employer Eligibility Requirements

Service providers must consider the following factors when determining the eligibility of employers to receive the WIOA share of funds to provide training to incumbent workers using either local adult and/or dislocated worker formula funds or WIOA statewide discretionary funds provided by the Governor:

1. The characteristics of the incumbent workers to be trained, specifically the extent to which they historically represent individuals with barriers to employment as defined in WIOA Section 3(24), and how they would benefit from retention or advancement;
2. The quality of the training (e.g., industry-recognized credentials, advancement opportunities);
3. The number of participants the employer plans to train or retrain;
4. The wage and benefit levels of participants (before and after training);
5. 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 Employment Security Department (ESD);
6. The employer is:
 - in an in-demand industry as defined by WIOA Section 3(23) and determined by ESD labor market information; or
 - in an in-balance industry as determined by ESD labor market information; or
 - 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.
7. The employer must not have laid off workers and relocated within 120 days of receiving incumbent worker training services;
8. The employer is current in unemployment insurance and workers' compensation taxes, penalties, and/or interest or related payment plan.

Each of the above factors leading to the approval of an incumbent worker training project with an employer must be documented.

D. Employer Share of Training Costs

Per WIOA Sections 134(d)(4)(C) and 134(d)(4)(D), employers participating in incumbent worker training are required to pay the non-WIOA (non-federal) share of the cost of providing training to their incumbent workers. The employer share is based on the size of the workforce (wages paid to the participant while in training can be included as part of that share and the share can be provided as cash or in-kind that is fairly evaluated) as follows:

1. At least 10 percent of the cost for employers with 50 or fewer employees
2. At least 25 percent of the cost for employers with 51 to 100 employees
3. At least 50 percent of the cost for employers with more than 100 employees

Service providers must track and document employer cost share contributions.

F. Definitions

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.

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.

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 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 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)]