

**Policy Letter #29**

**TO: All Cumberland County Workforce Development Service Providers**

**FROM: Justin Hembree, Interim Director**

**SUBJECT: Incumbent Worker Training Policy**

**PURPOSE**

This policy provides guidance on Workforce Innovation and Opportunity Act (WIOA) Section 134(d)(4) which allows Workforce Development Boards (WDBs) to use up to 20 percent of the combined Adult and Dislocated Worker allocated formula program funds to serve Incumbent Workers (IWs).

**DEFINITION**

Incumbent Worker Training (IWT) is 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 retain employment. The IWT should increase the competitiveness of the employee and employer for the purposes of identifying high-quality IW opportunities. An ideal IWT would be one where a participant acquires new skills allowing him or her to move into a higher paid job within the company; thus, allowing the company to hire a job seeker to backfill the incumbent worker's position.

**BACKGROUND**

To strengthen the workforce system, per WIOA Section 134(d)(4), WDBs are permitted the use of up to 20 percent of the combined total of Adult and Dislocated Worker allocated formula program funds for NCWorks IWT. An IW is not subject to eligibility requirements for Adults under WIOA, but demographic information is required.

Federal requirements mandate, at a minimum, the following data for each training participant and the information must be entered in NCWorks Online:

- Social Security Number
- Complete Name and Contact Information
- Gender
- Date of Birth
- Citizenship (Right-to-Work status)
- Selective Service Compliance
- Disability Status

- Ethnicity and Race

WDBs are required to collect and report outcomes based on criteria outlined in their local policy similar to reporting requirements found in the NCWorks Online system and approved by the Division of Workforce Solutions (DWS) upon submission of the local policy. The outcome measures should promote a skilled workforce by assisting workers in obtaining the skills necessary to retain employment or to avert layoffs and must increase both the worker's and the company's competitiveness. The workers served under WIOA will be reported using the NCWorks Online system.

#### Definition of Incumbent Worker

An Incumbent Worker (IW) is:

- at least 18 years of age and a paid employee of the applicant business or businesses;
- in a relationship that meets the Fair Labor Standards Act requirements for an employer-employee;
- an employee with an established employment history with the employer for 6 months or more.
- a citizen of the United States or a non-citizen whose status permits employment in the United States; and
- an employee to be trained who works at a facility located in North Carolina.

#### Definition of an Employer-Employee Relationship

An Employer-Employee Relationship must exist between the worker and the employer. Workers who are economically dependent on the business of the employer and will receive a W-2 form for tax filing purposes have an employer-employee relationship.

Individuals who do not meet the definition of the employer-employee relationship are:

- those who will receive a 1099 form for tax filing purposes; or
- those who are placed through a temporary agency.

IWT is not permitted to be used to provide the occupational training a new hire needs.

IWT can be used to either:

- help avert potential layoffs of employees, or
- assist/help improve the skills necessary to retain employment, such as increasing the skills of employees so they can be promoted within the company and create backfill opportunities for less-skilled employees

#### Non-Federal Share Requirements

An employer or group of employers must pay for a portion of the cost of providing the training to IWs. This portion is defined as the non-federal share and rules for matching are provided at Uniform Guidance 2 CFR 200.306 and 2 CFR 2900.8, respectively, WIOA Section 134(d) (4) (D), and the U.S. Department of Labor Training Employment Guidance Letter (TEGL) 19-16.

The non-Federal share shall be:

- 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 to 100 employees; and
- At least 50 percent of the cost, for employers with more than 100 employees.

The size of the employer may be determined by the number of employees currently employed at the local operation where the incumbent worker training will occur.

The non-Federal share may include the amount of wages paid by the employer to a worker while the worker is participating in IWT. The employer may provide the share in cash or in-kind, fairly evaluated. Other examples of an employer's non-Federal share are training equipment purchases, onsite facility usage, employees' food, travel, and/or lodging.

Collaborative IWT is designed to meet the common training requirements of a group of employers. All employers and employees must meet the WIOA criteria. The contract will be written with the lead employer who must have employees included in the training.

## **ELIGIBILITY REQUIREMENTS**

### **Business Eligibility**

The intent of the Cumberland County Workforce Development Board's NCWorks Incumbent Worker Training Policy is to provide services for current workers in established businesses in Cumberland County, North Carolina. Potentially eligible employers able to participate in IWT contracting include private-for-profit businesses, private non-profit organizations, and public sector employers.

An Eligible Business must:

- be current on all tax obligations;
- have an employer-employee relationship with at least five employees;
- have been in operation in Cumberland County for 12 or more months;
- provide participant data; and
- meet non-federal share requirements.

When determining an employer's eligibility for participation, staff must consider the following factors:

- the characteristics of the individuals in the program;
- the relationship of the training to the competitiveness of a participant and the employer; and,
- Other such factors may include:
  - the number of employees participating in the training;
  - the wage and benefit levels of those employees (at present and anticipated upon completion of the training);
  - the existence of other training and advancement opportunities provided by the employer;
  - the credentials and skills gained as a result of the training;

- layoffs averted as a result of the training;
- utilization as part of a larger sector and/or career pathway strategy; and
- employer size

A business is not eligible to receive WIOA IWT 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 employer is a private for-profit employment agency (i.e. temporary employment agency, employee leasing firm, or staffing agency); or
- the position is not full time (minimum of 32 hours per week).

### Participant Eligibility

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

- at least 18 years of age and a paid employee of the applicant business or businesses;
- in a relationship that meets the Fair Labor Standards Act requirements for an employer-employee;
- an employee with an established employment history with the employer for 6 months or more;
- a citizen of the United States or a non-citizen whose status permits employment in the United States; and
- an employee to be trained who works at a facility located in North Carolina.
- 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 purposes 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, stepparent, stepchild, grandparent, and grandchild.

### Creation Date

July 2020

**ATTACHMENTS:**      CCWDB IWT Business Guidelines  
                                  CCWDB IWT Grant Application  
                                  CCWDB IWT Application Assessment  
                                  CCWDB IWT Contract  
                                  CCWDB IWT Final Training Report