

## Adult (WIOA) and Dislocated Worker (WIOA and State) Incumbent Worker Training Programs

### SUMMARY

Incumbent Worker Training (IWT) programs, authorized by the Workforce Innovation and Opportunity Act (WIOA), are unique training service for currently employed workers. IWT can assist employers retain a skilled workforce, avert layoffs and increase competitiveness. This policy establishes the requirements for IWTs.

### Relevant Laws, Rules, or Policies

Workforce Innovation and Opportunity Act (WIOA) (42 USC 3101 et seq)

Code of Federal Regulations 20 (CFR) Part 682

Code of Federal Regulations 20 (CFR) Part 680

Training and Employment Guidance Letter (TEGL) 19-16 (March 1, 2017)

Training and Employment Guidance Letter (TEGL) 10-16, Change 3 (June 24, 2024)

### Effective Date

7/1/2018

### Last Updated

4/18/2025

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### POLICY

**Local Policy Required?** . Yes. Local providers (Herein after “Providers”) must have an updated and current policy on file that includes, at minimum, the information required by this policy. Provider policies must be made available to DEED upon request, either in hard copy or electronic formats.

This policy covers the following Dislocated Worker and Federal Adult Programs:

- WIOA Adult Program,
- WIOA Dislocated Worker Program,
- State Dislocated Worker Program,
- National Dislocated Worker Grants (DWGs), and,
- Certain special programs as applicable.

**Note:** Terms that are *Italicized* are also defined within the “Dislocated Worker and Federal Adult Programs (DWFAP) Terms and Definitions” document in the “Related Links” at the bottom of this policy.

### Incumbent Worker Training Overview

Incumbent Worker Training (IWT) is a type of training service for currently employed workers. IWT is designed to increase the competitiveness of both businesses and employees by ensuring workers acquire the skills necessary to retain employment and advance within the business.<sup>1</sup> IWT eligibility is determined at the employer level by providers per local policy.

IWT can also be useful for *Underemployed* workers. An ideal IWT allows a participant to acquire new skills to move into a higher skilled and higher paid job within the business, thus allowing the organization

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<sup>1</sup> 20 CFR 680.780

to hire a job seeker to backfill the incumbent worker's position. IWT is also a vital layoff aversion strategy when used to upskill and re-skill workers to retain employment.<sup>2</sup>

All IWT proposals received by providers must meet the following three requirements:

- 1) **Business Eligibility:** Employer(s) must be eligible to receive and provide IWT, and,
- 2) **Training Eligibility:** The training itself must be appropriate for incumbent workers, and,
- 3) **Incumbent Worker Eligibility:** The incumbent worker(s) must be eligible to receive IWT.

### **Business Eligibility**

Providers must ensure that all IWT employers are financially viable and:

1. Have been in business for at least one year,
2. Not currently be in bankruptcy or experienced bankruptcy within the past year,
3. Be current on all their local, state and federal tax obligations, and,
4. Not appear on any Federal suspensions or debarment lists.

Employers may be from the private (for-profit), certain non-profit or local government sectors. DEED encourages providers to prioritize IWT for private sector employers; however, there are instances where IWT for non-profit or local government employers may be appropriate.<sup>3</sup>

### **Employer Cost Sharing Requirements**

Employers participating in IWT must pay the entire non-Federal share of the cost of the training for their incumbent workers.<sup>4</sup> This amount can be paid either through cash payments or fairly evaluated in-kind contributions, including the wages the employer pays to the incumbent workers while attending training.<sup>5</sup> The minimum amount of employer share depends on the size of the employer(s) and cannot be less than:<sup>6</sup>

- 10% of the cost for employers with 50 or fewer employees,
- 25% of the cost for employers with between 51 to 100 employees, and,
- 50% of the cost for employers with more than 100 employees.

Employer size is determined by the total number of current full-time and part-time employees (not just the number of incumbent workers being trained) currently employed at the local operation where the training placements will be made at the time of the execution of the training contract. The employer share cost contributions must be documented in the contract for service and must be tracked through invoices during the contract term.<sup>7</sup>

### **Training Eligibility:**

Providers must ensure that all incumbent workers trainings:

1. Are designed to meet the special requirements of the employer(s) to retain a skilled workforce, or, to avert the need to lay off employees by assisting workers in obtaining the skills necessary to retain employment,<sup>8</sup> **and**,

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<sup>2</sup> 20 CFR 682.320(b)(4)

<sup>3</sup> TEGL 19-16 (Page 17)

<sup>4</sup> 20 CFR 680.820

<sup>5</sup> TEGL 19-16 (Pages 17 and 18)

<sup>6</sup> TEGL 19-16 (Page 18)

<sup>7</sup> TEGL 19-16 (Pages 17 and 18)

<sup>8</sup> 20 CFR 680.790(a)

2. Be conducted with a commitment by the employer(s) to retain or avert the layoffs of the incumbent worker(s) trained.<sup>9</sup>

Providers must also consider the following when determining eligibility for incumbent worker trainings:

1. The characteristics (job titles, skill levels, employment sector, barriers to employment, wages, etc.) of the individuals in the program,
2. Whether the training improves the labor market competitiveness of the employee(s) or both the employee(s) and the employer(s),
3. Other factors the provider determines appropriate including but not limited to:<sup>10</sup>
  - a) The number of employees to be trained,
  - b) Projected wage and benefits improvements post training,
  - c) The existence of other training opportunities provided by the employer(s),
  - d) The credentials and skills gained as a result of the training,
  - e) The number of layoffs averted as a result of the training,
  - f) Utilization as part of a larger sector and/or career pathway strategy, and,
  - g) Employer size.

#### Incumbent Worker Training Provider:

Incumbent workers trainings can be provided through Minnesota's public or private educational institutions, private training organizations, trainers employed by the IWT employer(s), training provided in-house or a combination of training providers. Incumbent workers trainings do not need to be on the Minnesota Eligible Training Provider List (ETPL).

#### Disallowed Incumbent Worker Trainings:

Incumbent workers trainings cannot include:

- Provide skills for seasonal or temporary jobs,
- Provide skills for independent contractors,
- Personal development courses,
- Onboarding or new-hire trainings,
- Non-skill related assessments,
- English as a second language courses,
- Basic skills or remedial education,
- Directly or indirectly assisting, promoting, or deterring union organizing,<sup>11</sup> or,
- Mandated safety trainings (including Federal, State, union or employer mandated safety trainings).

#### Incumbent Worker Training Delivery, Location and Time:

Incumbent worker trainings may be done in-person, online, or in a hybrid environment. In-person trainings may occur at the employer(s) place(s) of business or another location (training center, classroom, etc.) and at whatever time is most appropriate.

#### **Worker Eligibility**

All the incumbent workers must:

- Be a U.S. citizen or have U.S. work authorization,

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<sup>9</sup> 20 CFR 680.790(b)

<sup>10</sup> 20 CFR 680.810(c) and TEGL 19-16 (Page 16)

<sup>11</sup> 20 CFR 680.830

- Be employed and have Fair Labor Standards Act (FLSA) *Employer-Employee Relationship* with the IWT employer(s),<sup>12</sup>
- Have an established employment history with the IWT employer(s) for at least six months,<sup>13</sup> and,
- Meet Selective Service registration requirements (if applicable, see DEED's Selective Service Registration policy).

**Employer and Employer-Employee Relationship Clarification:**

Employment must be with the IWT employer(s) as an employee and not as an independent contractor, seasonal worker, or temporary worker (Temp jobs, etc.). Employment may include full-time or part-time employees. There is no minimum number of hours that a part-time employee must work to qualify for IWT.

**Note:** Refer to [Wage and Hour Division Fact Sheet #13](#) for more information on *Employee-Employer Relationship* determinations.

**Six-Month Employment History Clarification**

While independent contractors, seasonal workers, and temporary workers cannot receive IWT, periods (including non-consecutive periods) of this work for the same IWT employer do count towards an employee's time for the purposes of meeting six-month employment history requirement.<sup>14</sup> Providers must develop a process for documenting the six-month employment history requirement and include it in the contract between the provider and IWT employer(s).<sup>15</sup>

For incumbent worker trainings that include multiple individuals in the same 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 (at least 51%) of those employees in the cohort meet the six-month employment history requirement.<sup>16</sup>

**Use of Incumbent Worker Training Funds**

Providers may use up to a combined 20% of WIOA Adult and WIOA DW funds to provide IWT at the local level. Similarly, up to 20% of State DW funds can be used for IWT. Allowable costs for IWT are the same as the allowable costs for all other types of training services. For example, costs that qualify for reimbursement include (but are not limited to):

- Instructors'/trainers' salaries,
- Curriculum development,
- Textbooks and manuals,
- Materials and supplies,
- Tuition expenses, and,
- Off-site training space (i.e. classroom rental).

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<sup>12</sup> 20 CFR 680.780

<sup>13</sup> TEGL 19-16 (Page 16)

<sup>14</sup> TEGL 19-16 (Page 16)

<sup>15</sup> TEGL 19-16 (Page 17)

<sup>16</sup> TEGL 19-16 (Page 16)

### **Unallowed Uses of Incumbent Worker Training Funds**

IWT funds cannot be used for any of the following:

- Administrative costs
- Employee wages,
- Purchases of capital equipment or capital improvements,
- Purchases of items or services that will be used primarily outside of the incumbent worker training,
- Travel expenses for trainers or incumbent workers,
- Assessments, testing or certification fees, and,
- Advertisement or recruitment.

**Note:** Funds provided to employers for IWT must not be used directly or indirectly to assist, promote, or deter union organizing.<sup>17</sup>

### **Contract for Services**

Contracts for services can be used to provide IWT instead of using an Individual Training Account (ITA). The Local Plan must describe the process to be used in selecting the providers under a contract for services. The contract must be between the Local Workforce Development Area (WDA) and the eligible employer. The contract commits the business to complete the training criteria as proposed in its application, as well as committing to compliance with all applicable local, State, and Federal laws.

### **Workforce One and Performance Reporting**

Each incumbent worker must be enrolled in Workforce One and must meet DEED's case management requirements (see DEED's Case Management Policy in the "Related Links" section at the bottom of this policy). Providers must provide evidence that they have been in live contact with either the business or the training provider at some point every 30 days since the incumbent worker(s)'(s) enrollment. Case managers must include this documentation in each individual's case notes, but can use the same live contact event for each participant. A participant's case file must also contain proof of their attendance at the training (i.e. their signature on a sign-in sheet), as well as a copy of any credential(s) obtained through the training (if applicable).

If an individual is only receiving incumbent worker training and no other WIOA Title I services, they are not considered a "participant" for the purposes of performance reporting and are therefore not included in the State's federal performance metrics.<sup>18</sup> However, providers must still collect the following four performance metrics to demonstrate the efficacy of the training in Workforce One:

- Demographic information
- Employment in the 2<sup>nd</sup> and 4<sup>th</sup> Quarters After Exit
- Median Earnings in the 2<sup>nd</sup> Quarter After Exit
- Credential Attainment

The exit date for an individual who has received only incumbent worker training will be the last date of training, as indicated on the training contract.

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<sup>17</sup> 20 CFR 680.830

<sup>18</sup> TEGL 10-16, Change 3 (Page 39)

### **Related Links**

- [Dislocated Worker and Federal Adult Programs \(DWFAP\) Terms and Definitions](#)
- [DEED's Case Management Policy](#)
- [WIOA Incumbent Worker Training Desk Reference](#)