

Policy Letter #29

TO: All Cumberland County Workforce Development Service Providers

FROM: Nedra Clayborne Rodriguez, 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.

Incumbent Worker Training (IWT) is training by an employer or training provider in close partnership with an employer that is provided to a paid participant while engaged in productive work in a job that:

- provides knowledge or skills essential to the full and adequate performance of the occupation;
- provides reimbursement to the employer or training provider for the costs of providing the training and additional supervision related to the training; and
- is limited in duration as appropriate to the occupation for which the participant is being trained.

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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)
- 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 DWS 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 employer-employee relationship are:

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

Eligible Businesses

The intent of the Local NCWorks Incumbent Worker Training Policy is to provide services for current workers in established North Carolina businesses.

An Eligible Business will:

- be current on all tax obligations;
- have an employer-employee relationship with at least five employees; and
- have been in operation in North Carolina 12 or more months.

The WDB's NCWorks Incumbent Worker Training Policy should be 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 workers.

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, or lodging.

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

POLICY

The local Incumbent Worker Training Policy must be submitted by administrative adjustment through WISE to the DWS Planner for review, DWS approval, and incorporation into the current Program Year Plan. The WDB may begin the solicitation for and implementation of Local Incumbent Worker Training upon receipt of the approval from DWS (via WISE). Funds for Local IWT may not exceed 20 percent of combined total of Adult and Dislocated Worker allocated formula program funds.

The NCWorks Online system will be used for tracking enrollments of IW participants; therefore, WDB support staff must contact the DWS NCWorks Online staff prior to beginning Local IWT in order to establish a special system code and further instructions on the use of the policy in NCWorks Online.

WDBs must report expenditures through regular financial reporting to the DWS for up to the 20 percent of the combined total of Adult and Dislocated Worker allocated formula program funds.

Eligibility Requirements:

Participant Eligibility

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

- earn less than a self-sufficient wage per attached chart; and
- to receive IWT, an incumbent worker does not have to meet the eligibility requirements for participation in career and training services for adults and dislocated workers under WIOA, unless they are also enrolled as a participant in the WIOA adult or dislocated worker program; and
- be currently employed and in need of additional training to avert a layoff or be retained with the company.

Employer Eligibility

Potentially eligible employers able to participate in IWT contracting include private-for-profit businesses, private non –profit organizations, and public sector employers. An employer will not be 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 seasonally 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 (i.e. minimum of 32 hours per week).

Occupational Eligibility

IWT funds must be used on Star Jobs (occupations with the greatest projected employment potential as identified by the NC Department of Commerce, Labor & Economic Analysis Division [LEAD]) which will lead to employment opportunities that will enable the participant to become economically self-sufficient and which will contribute to the occupational development and upward mobility of the participant.

At the time of completion from the IWT program, the individual must be employed in an occupation that meets the following criteria:

- the hourly wage must be at or above the self-sufficient wage or the employee's starting wage, if starting wage was higher than the self-sufficient wage;
- the occupation must be listed as a Star Job with LEAD; and
- the occupation must be a full time permanent position following the training (minimum of 32 hours per week).

General WIOA Incumbent Worker Training Requirements:

- WIOA IWT contracts shall not be made with employers who have previously exhibited a pattern of failing to provide IWT participants with continued long-term employment with wages, benefits, and working conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work (20 CFR 680.700).
- When funds are available, WIOA IWT contracts may be written for eligible individuals when:
 - Priority in funding will be given to those individuals not earning a self-sufficient wage. [reference Attachment A: Living Wage Calculation for Cumberland County, NC]
 - It is determined that IWT is necessary to meet the requirements of an employer or group of employers in order 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.
- It is the expectation of the Cumberland County WDB that companies that use IWT funding will maintain the employment of the individual receiving the training as a full time employee provided benefits and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work for at least six months following the training.
- WIOA funds may not be used in conjunction with local Customized Training programs.
- IWT contracts will generally not be written for low skill jobs that generally would require little or no training.
- Special consideration will be given to IWTs in in-demand industries such as healthcare, manufacturing, construction, IT, energy, and professional, scientific, and technical services.

- 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.
- The training provider delivering IWT must apply and be approved as an Eligible Training Provider in NCWorks Online.

Incumbent Worker Training Length:

The maximum time frame for an IWT is 12 months, however, the duration of the IWT should be based on the training needed, not the maximum allowed under this policy. WIOA Adult and Dislocated Worker program contract staff should consult with the employer and utilize the Occupational Information Network’s (ONET) Specific Vocational Preparation Range (SVP) to determine the appropriate occupational training needed. Using the SVP provided by ONET, the following duration times are recommended in addition to the participant’s past skill and experience.

LEVEL	TIMEFRAME
Level 1	< 1 month
Level 2	1 month
Level 3	< 3 months
Level 4	< 6 months
Level 5-9	> 6 months

WIOA Incumbent Worker Training Funding Levels

Employers participating in Incumbent Worker Training are required to pay the non-Federal share (“employer share”) of the cost of providing training to their incumbent workers, per the sliding scale listed below. A maximum of \$5,000 per trained worker is permitted under this policy, however, the Cumberland County WDB will consider exceptions to the cap on training funds and the reimbursement schedule as detailed below.

The employer share may be provided in cash or in kind and may include the wages paid by the employer to a worker while the worker is attending the incumbent worker training program.

The level of reimbursement to the employer is determined by the employer size:

- < 50 employees = 80% of the cost of training for the employer, up to \$5,000 per IW participant
- 51-100 employees = 60% of the cost of training for the employer, up to \$5,000 per IW participant
- > 101 employees = 40% of the cost of training for the employer, up to \$5,000 per IW participant

Employer size is determined by the number of employees at the time of the execution of the IWT contract.

Consideration for changes to the reimbursement schedule will be considered for trainings in which the recipient receives an industry-recognized credential, for employers utilizing IWT services for the first time, or for employers providing IWT in partnership with three or more additional employers.

WIOA Incumbent Worker funds may not be used to pay for the wages of workers being trained. Funds provided under this program may be used for the cost of providing the training, including the cost of developing the training or fees for the training program or training provider.

Employer Requirements

With assistance from WIOA Adult and Dislocated Worker Program contract staff, participating employers must guarantee that:

- All participants shall be provided benefits and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work. This will include Unemployment Compensation coverage where the employer is normally required to provide such coverage to its employees.
- The position provides the participant benefits per company policy (i.e. insurance, paid leave, profit sharing) other than those required by law.
- Employees who have financial responsibilities related to the receipt and disbursement of funding under the Agreement shall be covered by fidelity bonding.
- The training to be provided will be in accordance with WIOA 181(a)(1)(A) and 683.275 fir wage and labor standards. Worker protection requirements are set forth in WIOA Sections 181(a)(1)(A) and (B), (b)(2), (3), (4), and (5) and 188.
- The employer agrees to cooperate with monitoring effort as required by WIOA legislation and adhere to all other applicable local, state, and federal rules and regulations.
- Funds are not used directly to indirectly assist, promote, or deter union organizing.
- The employer agrees to respond to the Cumberland County WDB/NCWorks Career Center staff requests for wages and retention information of participants.
- The employer commits to retain the trained employees for a period of a minimum of six months following the completion of training. Failure to do so may result in the employer being ineligible to receive further WIOA IWT funds for a period of one year.
- If the participating employer(s) has recently relocated, resulting in the loss of employment of any employee of such business at the original location in the U.S., IWT contracts may not be granted to the employer until after 120 days have passed since the relocation.

Funding Exceptions

The Cumberland County WDB is aware the extenuating circumstances may require additional funding beyond the cap outlined in this policy and will consider exceptions based on employer input. Written requests for an exception should be submitted to the Director.

PROCEDURE

Attachment A: Living Wage Calculation for Cumberland County

References

- 20 CFR. 680.780, 680.790, 680.800, 680.810, 680.820, 682.210(b), 682.320(b)(3)-(4)
- Workforce Innovation and Opportunity Act, Title I, Pub. L. No. 113 – 128. Section 134(d)(4). Section 134(d)(A)(i), Section 134(d)(4)(C), Section 134(d)(4)(D)
- Uniform Guidance 2 CFR 200-306 and 2 CFR 2900.8
- U.S. Department of Labor Training and Employment Guidance Letter (TEGL) 19-16 (dated March 1, 2017)
- NC DWS Policy Statement PS 17-2017 (dated November 20, 2017)

Creation Date

March 2018

Revised Date

N/A

Living Wage Calculation for Cumberland County, NC

The living wage shown is the hourly rate that an individual must earn to support their family, if they are the sole provider and are working full-time (2080 hours per year.) All value are per adult in a family, unless otherwise noted. The state minimum wage is the same for all individuals, regardless of how many dependents they may have. The poverty rate is typically quoted as gross annual income, but has been converted to an hourly wage in the table below for the sake of comparison. (Reference: <http://livingwage.mit.edu/counties/37051>)

	Hourly Wage		
	Living Wage	Poverty Wage	Minimum Wage
1 Adult	\$11.60	\$5.00	\$7.25
1 Adult 1 Child	\$23.64	\$7.00	\$7.25
1 Adult 2 Children	\$27.06	\$9.00	\$7.25
1 Adult 3 Children	\$34.13	\$11.00	\$7.25
2 Adults (1 Working)	\$18.52	\$7.00	\$7.25
2 Adults (1 Working) 1 Child	\$21.46	\$9.00	\$7.25
2 Adults (1 Working) 2 Children	\$24.45	\$11.00	\$7.25
2 Adults (1 Working) 3 Children	\$27.27	\$13.00	\$7.25
2 Adults	\$9.26	\$3.00	\$7.25
2 Adults 1 Child	\$12.69	\$4.00	\$7.25
2 Adults 2 Children	\$15.08	\$5.00	\$7.25
2 Adults 3 Children	\$17.39	\$6.00	\$7.25