



Bay Consortium Workforce Development Board

Policy Number: 15-02
Effective Date: May 6, 2016
Revised Date: November 4, 2020
Title: Incumbent Worker Training

PURPOSE

The purpose of this policy is to provide procedures and guidance on Incumbent Worker Training requirements, appropriate data entry, and performance measure reporting. This guidance applies to incumbent worker training programs that receive funding through incumbent worker training contracts with an employer that are supported by the Workforce Innovation and Opportunity Act (WIOA) Title 1-B local formula funds to train adults and dislocated workers, including those with disabilities.

It is crucial for the BCWDB to promote a highly-skilled and job-ready workforce that meets the needs of employers. The BCWDB ensures that workforce development services for the existing workforce are coordinated and designed for rapid access to the range of employer assistance available through statewide and local initiatives. The BCWDB recognizes that improving the education and skill levels of the current workforce will not only improve state and local economies, but will also increase the ability of businesses to effectively compete in the global market. WIOA funds may be expended for incumbent worker training (WIOA section 133(b) (4)).

WIOA funds will be made available through a process designed to assist Virginia businesses, which could include a single firm or a group of firms that share similar workforce needs, using a sector strategy approach to meet the skills training needs of their incumbent workforce.

REFERENCES

- Virginia Board of Workforce Development Policy No. 403-04, Incumbent Worker Training
- Virginia Board of Workforce Development Policy No. 404-01, Identification of Eligible Providers of Occupational Skills Training
- Workforce Innovation and Opportunity Act, Sections 122, 133 and 134
- Training and Employment Guidance Letter (TEGL) No. 10-16, Performance Accountability Guidance for WIOA Title I, Title II, Title III, and Title IV Core Programs
- Workforce Innovation and Opportunity Act; Employment and Training Administration; Labor Final Rule, Subpart F-Work-Based Training Sections 680.700 through 680.840



- Training and Employment Guidance Letter (TEGL) No. 10-16, Performance Accountability Guidance for Workforce Innovation and Opportunity Act (WIOA) Title I, Title II, Title III and Title IV Core Programs
- Training and Employment Guidance Letter (TEGL) No. 19-16, Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules

DEFINITIONS

Incumbent Worker is an employed individual, who is:

- at least 18 years of age;
- a paid, full-time employee of the applicant's business working at a facility located in Virginia;
- a citizen of the United States or a non-citizen whose status permits employment in the United States, who has registered for selective service as appropriate;
- meets the Fair Labor Standards Act requirements for an employer-employee relationship;
- who has an established employment history with the employer for 6 months or more; and
- recommended by their current employer for Incumbent Worker Training in order to address changes in the necessary skills to remain in their position, to remain in their company, or avoid a layoff.

Incumbent Worker Training (IWT)

IWT is a form of work-based training that is designed to ensure that employees of a company are able to acquire the skills necessary to retain employment and advance within the company, thus creating backfill opportunities for the employer, or to provide the skills necessary to avert a layoff. It is designed to either assist workers in obtaining the skills necessary to retain employment or to avert layoffs and must increase both a participant's and a company's competitiveness.

Individual vs. Participant for Reporting Purposes: See WIOA Final Rules for Definition

Because of the unique nature of the Incumbent Worker Training Program, where the Local Workforce Development Board evaluates the employers for eligibility consistent with § 680.810, individuals receiving Incumbent Worker Training are not subject to the same eligibility criteria that apply to participants in the adult or dislocated worker programs, unless they are also receiving other services under those programs.

Therefore, individuals who only receive incumbent worker training and no other WIOA Title I service do not fall within the definition of "participant" in 20 CFR 677.150(a).



As such, those that are receiving only Incumbent worker training, shall be reported as an "Individual" and not a WIOA Program Participant for purposes of our reporting.

Program Year

Is the period that runs from July 1 through June 30 of the subsequent year.

Recognized Postsecondary Credential (RPC)

RPC is a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the Commonwealth of Virginia or the Federal Government, or an associate or baccalaureate degree.

Virginia Workforce Connection (VaWC)

VAWC is the System of Record for the WIOA Title I programs in the Commonwealth of Virginia.

BACKGROUND

The Virginia Board of Workforce Development (VBWD) Policy No. 403-04: Incumbent Worker Training provides criteria for the Bay Consortium Workforce Development Board (BCWDB) for implementing the Incumbent Worker Training requirements in the Workforce Innovation and Opportunity Act of 2014 for the Commonwealth of Virginia.

Incumbent worker training is intended for workers who have an established work history with the current employer and the knowledge, skills, and abilities needed by their current employer, but now need additional training to advance in the company, creating backfill opportunities, or avoid a layoff. Incumbent workers are employed at the time of their participation, and the incumbent worker training contract funds are paid to the employer for training provided to the incumbent worker either to avert a lay-off or otherwise retain employment.

Incumbent worker training is targeted to improving the skills and competitiveness of the participant and increasing the competitiveness of the employer. The training should be high quality and, wherever possible, allow the participant to gain industry recognized training experience and ultimately should lead to an increase in wages.

Strategies for developing new workforce skills in the existing workforce shall be designed, using a sector strategy approach, to benefit business, industry and the employee in ways that encourage and support the integration of new technology and business processes, increase employee productivity, support the competitiveness of the company, and provide incumbent workers with opportunities for advancement and wage gains within their company.



The Training and Employment Guidance Letter (TEGL) WIOA No. 10-16, in accordance with WIOA sec. 122 and 134, explains the requirements in order to utilize WIOA Title 1-B funds for incumbent worker training.

Based on the WIOA, TEGL No. 10-16 and the VBWD Policies No. 403-04 and No. 404-01, the WIOA Title I Administrator, Virginia Community College System-Workforce Development Services (VCCS-WDS) has developed the following guidelines and procedures for the BCWDB Incumbent Worker Training activities effective July 7, 2017.

GUIDANCE

Incumbent Worker Employer Eligibility

In accordance with VBWD Policy No. 403-04 employer eligibility criteria, the Bay Consortium Workforce Development Board (BCWDB) is expected to include the following criteria:

- Demonstration of linkages of the training activity to demand occupations and/or regionally targeted industries;
- The positive relationship of the training to the competitiveness of a participant and the employer;
- The relative wage and benefit levels of those employees (pre-training and anticipated upon completion of the training); and
- The potential state and regional economic impact, if any, of the training project.

Employers must be:

- Private Sector, being Private-for-profit businesses or private non-profit organizations with under 250 employees;
- Operating in the Commonwealth of Virginia during the entire twelve-month period prior to the application date, with at least one employee other than the owner if the employer entity a private business;
- Current on all Virginia tax obligations, including all applicable county, city and local taxes; and
- Proposing to deliver the training for employees based within Virginia.

The following employers are NOT eligible to participate:

- Public Sector employers;
- A business that has a history or pattern of failing to provide WIOA participants with continued 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.



- A business or part of a business that has relocated from any location in the United States, until the company has operated for 120 days, if the relocation has resulted in any employee losing his or her job at the original location.
- A new or expanding business must verify whether it has relocated employment from another area, and must indicate whether any employee lost a job in the previous location as a result of the relocation.
- A standardized pre-award review must be completed and documented jointly between the local area and the business establishment as a prerequisite to training.

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Prohibition on Use of Funds to Encourage or Induce Relocation

No funds provided under this title shall be used, or proposed for use, to encourage or induce the relocation of a business or part of a business if such relocation would result in a loss of employment for any employee of such business at the original location and such original location is within the United States.

Restrictions on Use of Funds after Relocation

No funds provided under this title for an employment or training activity shall be used for customized or skill training, on-the-job training, incumbent worker training, transitional employment, or company-specific assessments of job applicants or employees, for any business or part of a business that has relocated, until the date that is 120 days after the date on which such business commences operations at the new location, if the relocation of such business or part of a business results in a loss of employment for any employee of such business at the original location and such original location is within the United States.

Incumbent Worker Employee Eligibility

At a minimum, any individual being served in an incumbent worker training program must meet the general criteria below:

- At least 18 years of age;
- A citizen of the United States or a non-citizen whose status permits employment in the United States;
- Males born on or after January 1, 1960 must register with the selective service system within 30 days after their 18th birthday or at least before they reach the age of 26;
- Meet the Fair Labor Standards Act requirements for employer-employee relations and have an established employment history with the employer for 6 months or more; and
- An employee to be trained that works at a facility located in Virginia or working for a staffing agency and placed at a Virginia facility.

Note, if the incumbent worker is receiving WIOA Adult or Dislocated Worker services in addition to incumbent worker training, the individual must also meet the additional program



specific eligibility requirements like all other adult or dislocated worker participants and will be counted in local program performance.

In the event that the incumbent worker training is being provided to a cohort of employees, not every employee in the cohort must have an established employment history with the employer for 6 months or more as long as a majority of those employees being trained meet the employment history requirement.

Individuals receiving incumbent worker training are subject to selection for the federally mandated data validation. Therefore, documentation must be available to support incumbent worker eligibility requirements (See Attachment B).

Additional Criteria

For an employer, and their employees, to receive incumbent worker funds in support of training activities, the BCWDB must consider the characteristics of the individuals in the program with regard to the training requirements; the relationship of the proposed training to the competitiveness of the participant and the employer; and, other factors the Board may determine appropriate, including number of employees trained, wages and benefits including post training increases, and the existence of other training opportunities provided by the employer when determining to do Incumbent Worker Training with an Employer.

Training activities may include, but not be limited to, Occupational Skills Training, Skill Upgrading and Retraining, Literacy Activities related to Basic Work Readiness, Job Readiness Training or Work Readiness Training, and Customized Training. In instances where Customized Training is offered under this policy, provisions under State Policy #15-00 shall also apply. The local area must monitor against those provisions after the training is complete and maintain documentation of such monitoring.

Training services under local initiatives may be provided through Virginia's community colleges, school districts, area vocational-technical centers, state universities, licensed and certified post-secondary private institutions and from subject matter experts, consultants, or trainers from the applying business. Employers should be encouraged to use the State approved Eligible Training Providers List. Training can be conducted at the employer's facility, at the training provider's facility, or at a combination of sites.

Proposed training costs must be reasonable and necessary and clearly relate to the purposes and activities of the project as described. Businesses must provide a match as designated on the Employer Portion of the training-related costs. Funds provided through this effort are not intended to supplant training normally provided by employers. Local areas are encouraged to leverage resources from multiple public and private resources within the community; however, activities funded by these WIOA dollars cannot duplicate efforts funded by other such sources.



Examples of allowable activities and expenses:

- Training for participants for productive, high demand employment;
- Work-site-based learning strategies using cutting-edge technology and equipment;
- Training programs incorporating technological changes in the workplace;
- Training programs designed to impart learning to meet employer-specified or industry-specific skills;
- Train-the trainer instruction to build the capacity of businesses to effectively respond to the challenges of an increasingly diverse workforce
- Consumable training materials and supplies
- Textbooks
- Off-site facility rental expense directly related to and necessary for the training
- Rental of tools and equipment critical to the project
- Travel expense and per diem of instructor Instructor/trainer fees
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Activities NOT eligible for funding:

- Costs incurred prior to the approval date of the application
- Construction or purchase of facilities or buildings
- Business relocation expenses
- Employment or training in sectarian activities
- Lobbying activities
- Direct Employee wages

Funding and Data Entry

There is no distinct "Incumbent Worker Program," as local funds and statewide rapid response funds are available to provide incumbent worker training.

The options for funding incumbent worker training are as follows (with no state priority assigned):

- Adult Local Formula Funds
- Dislocated Worker Local Formula Funds
- Statewide Rapid Response Funds

The BCWDB may reserve and use up to 20 percent of the WIOA Title I Adult and Dislocated Worker funds allocated to the local area to pay for the Federal share of the cost of providing a training program for incumbent workers. The BCWDB shall determine the appropriate funding stream for local formula funds based upon the needs of the employer and the area. Incumbent worker training should, wherever possible, allow the participant to gain industry-recognized training experience and a recognized post- secondary credential.



Incumbent worker training recipients must adhere to the procurement standards set forth by the Uniform Guidance. Allowable costs of incumbent worker training are consistent with the allowable costs rules for all types of training.

Data Entry

Specific data entry requirements are located in Attachment A.

Non-Federal Share - Employer Portion

Employers participating in the program are required to pay for the non-Federal share of the cost of providing the training to incumbent workers of the employers in accordance with VBWD Policy No. 15-00.

Employers participating in the program are required to pay for the Employer portion of the cost of providing the training to incumbent workers of the employers.

The Employer portion shall not be less than:

- 10 percent of the cost, for employers with not more than 50 employees
- 25 percent of the cost, for employers with more than 50 employees but not more than 100 employees; and
- 50 percent of the cost, for employers with more than 100 employees

The Employer portion provided by an employer participating in an incumbent worker training project may include the amount of the wages paid by the employer to a worker while the worker is participating in the training activity. The employer may provide the share in cash or in-kind, fairly evaluated. The Employer portion may not be federal funds.

The BCWDB shall ensure contracts with employers provide sufficient information to include participants in reporting (see below).

Incumbent Worker Training Documentation

The BCWDB has the responsibility for receiving, reviewing, and approving employer applications for participation in Incumbent Worker Training. The BCWDB is responsible for developing and maintaining the Incumbent Worker contract with the employer. The boards must ensure that data elements related to employee demographics, eligibility, training and attainment of desired skills or industry recognized credential, and performance are entered into the Virginia Workforce Connection, the supported state system of record.

The BCWDB is required to maintain all documentation received and reviewed for the minimum required retention period of three years. Documents that must be retained include:



- completed and signed application
- completed and signed contract
- documentation or certification of employee eligibility (see attachments for forms that may be used)
- training plans if separate from the application
- copies of credentials received or employer certification of training completion
- a copy of the invoice from the training provider
- a copy of the employer's payment made to the training provider
- a completed reimbursement request form
- a signed form indicating that the employer has been made aware of the local area's Grievance and Equal Opportunity Policies
- all documentation regarding IWT related complaints and actions taken on those complaints.

The required file format for IWT contracts, for both individual and cohort contracts, shall include the information noted above with a note of the location of the participant file for each individual co-enrolled in a WIOA Adult or Dislocated Worker Program. Please note that the IWT file contains PII (personally identifiable information) and should be handled accordingly.

All documentation collected and maintained will be subject to validation during the auditing, monitoring and data validation processes.

Program Performance Reporting

The BCWDB is required to enter all individuals receiving WIOA Title I funded incumbent worker training into the VaWC and to report outcomes on all individuals who receive incumbent worker training.

For individuals in incumbent worker training, outcome measures will be determined based on BCWDB incumbent worker training program design and data entry (Attachment A, and Attachment C). Attachment C includes data elements required for reporting of Incumbent Worker Training, for example, measurable skill gains, credential attainment, and post-program employment. If local formula funds are used, the incumbent worker must have an adult or dislocated worker classification, as specified in Attachment A, Section 11.

The primary data elements that are used to collect and report incumbent worker training to the federal government are as follows:

- Participant Information Record Layout (PIRL) Data Element 907 - Recipient of Incumbent Worker Training
- TEGL 10-16 Attachment 8 Incumbent Worker Training Required Data Elements (Attachment C)



Business Services

Incumbent worker training is an important business services initiative that is designed to benefit business and industry by assisting with existing employees' skill development and by increasing employee productivity and company growth. The BCWDB will detail incumbent worker training in the business services plan. Incumbent worker training will be tracked in the business engagement report and be reported to the Virginia Board of Workforce Development.

Outcomes

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 programs create a number of positive outcomes including:

- Improving the alignment of existing workers' skills with new job requirements;
- providing individuals access to new career opportunities within a business;
- encouraging the retention of existing personnel who otherwise may become dislocated because of skills deficiencies; increasing the wages of newly trained workers;
- 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.

Attachment A

Desk Reference Checklist for Incumbent Worker Training Data Entry Process

Incumbent Work Data Entry Process Link:

https://virginiacareerworks.com/wp-content/uploads/VWL-16-05-Change-1-Attachment-A-IWT-Data-Entry-Process-.pdf#new_tab

Attachment B

Incumbent Worker Eligibility Documentation

Incumbent Worker Eligibility Documentation Link:

https://virginiacareerworks.com/wp-content/uploads/VWL-16-05-Change-1-Attachment-B-Incumbent-Worker-Training-Eligibility-Documentation_7-7_2017-002.pdf#new_tab

Attachment C

Incumbent Worker Training Required Data Elements

Incumbent Worker Training Required Data Elements Link:

https://virginiacareerworks.com/wp-content/uploads/VWL-16-05-Change-1-Attachment-C-IWT-Required-Data-Elements.pdf#new_tab