

## **I. Purpose:**

This policy provides criteria to determine employer and employee eligibility, employer non-federal cost match, allowable costs for reimbursement, contract requirements, reporting, and other program requirements. Incumbent Worker Training (IWT) is designed to meet the special requirements of an employer and can be used to retain a skilled workforce or to avert the need to lay off employees by assisting the workers in obtaining the skills necessary to retain employment.

## **II. Background:**

The Workforce Innovation and Opportunity Act (WIOA) establishes a framework to assist employers with their workforce training needs. WIOA recognizes that employed workers may require training in order to retain jobs that provide self-sufficient wages. IWT grants are designed to increase the skill levels of employees so they may be promoted within the company and as a result create backfill opportunities for employers or increase wages and improve productivity. **WIOA Section 133(b)** and **134(d)(4)** allows the local board the opportunity to use up to 20% of local Adult and/or Dislocated Worker formula funds to train employed workers.

## **III. Instructions:**

The Southeast Tennessee Local Workforce Development Board (STLWDB) authorizes the use of up to 20% of local Adult and Dislocated Worker formula funds for IWT grants. The utilization of local formula funds for IWT training will not be allowed if the use of such funds would significantly limit or discontinue individual participant financial support for Individual Training Accounts and Supportive Services.

IWT should improve the skills and competitiveness of the participant and increase the competitiveness of the employer. The IWT Program is used to support training that is in an in-demand industry or occupation and results in **one or more** of the following training outcomes. The training outcomes must be documented prior to final training reimbursement.

- Develops skills that directly benefit the workers receiving the training;
- Training that targets participants qualifying for a job with changing skill requirements or for higher paying jobs with their employer creating opportunities to backfill with WIOA eligible new employees;
- Training that leads to skills and knowledge to perform work that is at a higher level than their current positions
- Process improvement that contributes to the competitiveness and productivity of a business; process improvement refers to training that contributes to the competitiveness and productivity of a business;
- The training should, whenever possible, allow the participant to gain a recognized credential and ultimately should lead to an increase in wages; the term “recognized postsecondary credential” means a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship or an associate or baccalaureate degree.
- Other local initiatives as deemed by the STLWDB to be allowable as an IWT project.

## A. Incumbent Worker Eligibility Criteria

An incumbent worker must be:

- A U.S. citizen or otherwise legally entitled to work in the U.S.;
- Age 18 or older;
- Registered for the Selective Service (males who are 18 or older and born on or after January 1, 1960) unless an exception is justified;
- Employed;
- Meet the Fair Standards Act requirements for an employer-employee relationship (<http://www.dol.gov/whd>); and
- Have an established employment history with the employer for six (6) months or more—the STLWDB staff has a process in place to document the six-month work history requirement for IWT recipients with the employer; this term is included in the IWT contract with the employer. Exception: *If incumbent worker training is being provided to a cohort/class of employees, there must only be a majority of workers with tenure of six (6) months or more.*

*Note: Per proposed 20 CFR 680.780, an incumbent worker does not necessarily have to meet the eligibility requirements for career and training services for Adults and Dislocated Workers under this Act. However, the IWT participants must be entered in the Virtual One-Stop (VOS) with all the information necessary to record them as an IWT recipient.*

## B. Employer Eligibility Criteria

The following factors must be considered when determining the eligibility of employers to receive the WIOA share of funds to provide training to incumbent workers:

- Employers must be in an in-demand industry as determined by labor market data and as defined in **WIOA Section 3[23]** and in-demand sectors as outlined in the local area plan.
- Generally, IWT should be provided to private sector employers; however, there may be instances where non-profit, not-for-profit, and local government entities may also be the recipients of IWT funds; for example, IWT may be used in the healthcare industry where hospitals are operated by non-profit or local government entities and a nursing upskilling opportunity is available.
- The employer is current in unemployment insurance and workers' compensation taxes, penalties, and/or interest or related payment plan.
- Employers participating in IWT must be registered with Internal Revenue Service (IRS), have an account with Unemployment Insurance, and carry workers' compensation insurance (**Federal Register Vol. 81, No. 161, Page 56117**)
- The employer must be financially solvent and have an adequate payroll recordkeeping system that tracks hours worked, gross pay, deductions, and net pay.
- The agreement between the LWDB and the employer will not displace any currently employed worker (**WIOA Section 181[b][2][A]**).
- No contract may be written with a company that has relocated (for the first 120 days after beginning operations) if the move has resulted in any employee job losses at the original location (**WIOA Section 181[d][2]**).
- The employer must not currently be involved in a labor dispute or have workers currently in a layoff status. (**20 CFR 680.840**)
- Employees may not work on construction, maintenance, or operation of any facility that

is used for sectarian activities. (*WIOA Section 188[a][3]*)

- The employer must not illegally discriminate in training or hiring practices because of race, color, sex, national origin, religion, disability, political beliefs or affiliation, or age (*WIOA Section 188[a][2]*).
- The employer must have not filed bankruptcy in the past 12 months or is not planning to file for bankruptcy

### **C. Local Funds Pre-Application Requirement**

Businesses that are requesting IWT grants must complete an application, provide proof of Selective Service registration, submit a list of all trainees, and sign and execute a contract with the Southeast Tennessee Development District. Additional documentation is required during the project and at project completion.

### **D. IWT Grant Review Process—Local Funds**

All applications will be scored using the IWT Scoring Matrix (Appendix A). Applications that meet the minimum required score will be reviewed by the local board staff for final approval. The following are considered for scoring the employer application:

- Creates new jobs; saves jobs or prevent layoffs;
- Improves the short-term wage level of the trainees;
- Results in an industry-recognized certification/credential as defined by WIOA sec. 3(52);
- Results in increased employment opportunities or retention for participants in active recovery from a substance abuse issue or provides opportunities for returning citizens (re-entry population);
- Training projects in a distressed county as defined by the annual Appalachian Regional Commission (ARC) Index of County Economic Status.
- Provides or enhances process improvement for the business.

### **E. Contract Limits**

- An employer's IWT grant(s) cannot exceed an aggregate total of \$25,000 for one or more contracts during the funding cycle;
- Board staff approval is required for IWT grants over \$25,000 with a notification sent to the Executive Committee before final approval and contract award to the employer;
- Grant requests exceeding \$25,000 must provide persuasive justification for the additional funds;
- Local workforce development board approval may be required for projects that do not align with the local plan or are not in an in-demand industry or occupation.

### **F. Contract Requirements—Local Funds**

- Businesses approved for funds must enter into a contract with the Southeast Tennessee Development (SETD);
- The contract commits the business to complete the training as proposed in its application as well as maintaining compliance with all applicable local, state, and federal laws;
- Approved budget items are reimbursed upon presentation of adequate documentation of the training and evidence that the training expense incurred has been paid;

- Businesses shall submit reimbursement requests at the completion of training, but no more frequently than monthly or within the agreed arrangement between the parties in the contract, with required support documentation presented to local board staff;
- Businesses will keep accurate records of the project implementation process and certify that all information provided for the purpose of requesting reimbursements and reporting training activity is accurate and true;
- Businesses approved for local formula funds must submit monthly progress reports by the 5<sup>th</sup> of each month; reports to the STLWDB staff ensure training progression meets contract requirements.

#### **G. Grant Activities, Grantee Requirements and Training**

- All training must have specific start and end dates that fall within the period of the grant contract;
- Training may be provided through public or private educational institutions, private training organizations, trainers employed by the business, or a combination thereof;
- Training can be conducted at the business's location, the training provider's facility, or a combination thereof.

#### **H. Reimbursable Training Expenses**

- Tuition expense (tuition is defined as instruction provided by an institution regulated by the Tennessee Higher Education Commission or Tennessee Board of Regents);
- Instructors/trainers salaries capped at actual amount or \$50/hour if company trainers are used (whichever is less);
- Curriculum development not to exceed 5% of total obligation (curriculum development is defined as the time necessary for company officials to determine training needs or the actual development of curriculum);
- Textbooks and manuals;
- Materials and supplies.

#### **I. Non-Reimbursable Costs\***

- Trainee's wages;
- Purchases of capital equipment;
- Travel expenses of trainers or trainees;
- Meals provided during training;
- Advertising or recruitment.

**\*Note:** The above Non-reimbursable Costs may be used as the employer's non-federal match.

#### **H. Employer Match of Training Costs**

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. (WIOA Sections 134(d)(4)(C) and 134(d)(4)(D) and 20 CFR 680.820). 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:

- 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
  - At least 50 percent of the cost for employers with more than 100 employees
- Employer cost match contributions must be tracked and documented in the contract file. In addition, the methodologies for determining the value of in-kind contributions must be documented in the contract file and conform to cost match requirements at 2 CFR 200.306

**I. Project Completion**

All grant projects shall be performance-based with specific measurable performance outcomes including:

- Completion of the training project;
- Number of employees trained;
- Beginning and ending wages of trainees;
- Customer satisfaction;
- Final payment for businesses receiving grants will be withheld until all required documentation is submitted and all performance criteria specified in the contract have been achieved.

**J. Monitoring Procedures**

Incumbent Worker Training contracts will be subject to monitoring as outlined in the STLWDB’s Monitoring and Oversight Policy.

**K. Outreach**

The level of employer outreach will align with the available funding and contract limits. The outreach must be extended to employers in all ten counties within the local area.

**AUTHORIZED BY:**

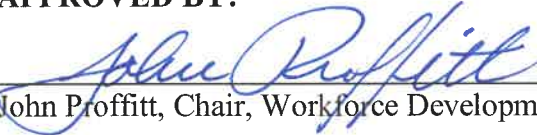


Michele Holt, Director, Workforce Development

12/10/19

Date

**APPROVED BY:**



John Proffitt, Chair, Workforce Development

12.10.19

Date

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