



POLICY: Incumbent Worker TRAINING

EFFECTIVE DATE: **POLICY NUMBER: 2019-9**

PURPOSE

The basic purpose of Incumbent Worker Training (IWT) is to allow employers a means to ensure periodic skill building to maintain a quality workforce to remain competitive. It also provides employees with a means to stay marketable. Skilled workers are more highly valued, and statistics prove that investing in workers increases retention rates. This reduces the cost of staff turnover. Increasing skills allows employees to receive promotions within the company and create backfill opportunities for the employer.

BACKGROUND

WIOA provides resources, services, and leadership tools for the workforce system to help individuals find and maintain good jobs and improves employer prospects for success in the global marketplace. WIOA Title I provides authority for three programs: Adult, Dislocated Workers and Youth programs.

CANCELLATIONS

This policy supersedes all pre-existing policies for IWT.

ACTION REQUIRED

Within 15 days of the receipt of this policy it is the recipient's responsibility to ensure all staff are informed of the policy and to create an internal process to ensure accountability.

QUESTIONS

Questions relating to this policy should be directed to the Director, Talent Development / WIOA at policy@worksourcemontgomery.com.

POLICY

IWT is a strategic employment service that supports the business community in their hiring process by increasing productivity at reduced cost to the employer, and is an excellent vehicle for employees to build their skills and re-establish their employment status. WorkSource Montgomery's Workforce Development Board allows for 20% of combined Adult and Dislocated Worker funds to pay for incumbent worker training strategies. WSMs IWT Policy focuses upon:

- The ability to keep skilled workers on the payroll and avert the need for layoffs.
- Provides employees with training to keep them relevant in the marketplace and retain employment.
- Allowing, primarily, for small businesses in Montgomery County, MD to upskill staff in in-demand industry areas.

Business Eligibility Criteria

- Businesses must have a permanent address of operations within Montgomery County, MD in designated office space (not operating from inside a residence).
- Businesses must be registered in the Maryland Workforce Exchange database with an EIN number.
- Businesses must attest, in writing, that it is a business in good standing with the state of Maryland. The business must be financially solvent.
- Businesses must comply with the requirements of the Fair Labor Standards Act of 1938. The pay rate may not be less than the higher of the rate specified in section 6(a)(1) or the applicable state or local minimum wage law.
- Businesses must have not laid off employees within the previous 120 days to the start of the proposed training, nor plan to let go current employees not included in the training, or replace them with newly trained employees.
- The business's turnover rate must be reasonable.
- The Business Services Consultant should visit the training site and should inquire about safety records and inspections. The BSC is not an OSHA inspector, however, and is only expected to question reasonably apparent potential hazards.
- Employees receiving training must be W-2 employees and not 1099 contracted employees.
- Businesses must be in private practice and employ at least 5 permanent FT employees.
- Businesses must have 100 or fewer employees.
- Training is allowable for both FT and PT permanent employees. WSM defines full-time employee as that equal to and no less than 37 hours per week. PT employees should be working a minimum of 20 hours per week.
- The IWT site has necessary equipment, materials, and supervision to provide adequate training.

- Employer does not illegally discriminate in training or hiring practices because of race, color, sex, national origin, religion, physical or mental handicap, political beliefs or affiliations, or age.
- No fee may be charged to the employee for said training.
- The IWT training does not involve the construction, operation, or maintenance of any part of any facility that is used or to be used for sectarian instruction or as a place for religious worship.
- The IWT employer is not a casino or other gambling establishment, zoo, swimming pool, aquarium or golf course (see high demand occupation clarification referenced in the Local Plan).

Employee Eligibility Criteria

- Employee must be a W-2 worker rather than a 1099 contractor, temporary worker, vendor or intern.
- Employee must have been on the payroll with the employer for a minimum of 6 consecutive months. Some of this time may include working as a temporary worker or a contractor for the same employer, but not for the majority of the 6 month time requirement.
- In the event the training will be provided to a cohort, not every employee in the cohort must have an established work history of 6 months, but the majority(51%) should meet the requirement.
- Employees slated to be trained must not have wages that exceed \$80k per year. A limited number that earn in excess may be allowed to participate if the majority make less than that figure.
- Employee must perform work that is considered essential to the business (not easily replaceable).
- Businesses must be paying unemployment insurance and worker's compensation premiums for the employee.
- Employee must sign an agreement to remain with the employer for a minimum of 18 months from the time the training concludes (subject to unforeseen circumstances).

Training Criteria

The employer designs the on-site training the employee or employees will receive. The training is aligned with the skills required for the job and is a long-term investment in the company. The skills gained must represent licensure, an industry-recognized certification or other portable qualification. The skills must be in line with the purpose and intention of the business's strategic objectives.

Business must agree to and provide the following for WSM approval *prior* to the commencement of the training:

- Business must cost share 50% of the entire training cost.
- WSMs maximum annual per employer allocation is \$20,000. This is contingent upon availability of funding.

- Special circumstances may require Board approval on a case-by-case basis.
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- A detailed training plan provides the rationale for training and description.
- The number of employees slated for training.
- The training duration.
- The anticipated result: promotion, industry certification, retention if required to keep position (note for a nationally recognized certification, WSM may reimburse \$3500 per person).
- The training per person lifetime maximum is limited to a three-year period.
- The itemized associated costs including all materials and tools, e.g. books and training materials (can be online), proficiency testing, in-house or training provided by consultants, college courses specific to the job not to exceed 4 months in duration.
- Disallowable costs include: travel costs, capital expenses and business equipment.
- Training may be part of a Registered Apprenticeship program.
- Training duration should not extend beyond 4 months to ensure funds are expended in a timely manner.
- Applications submitted less than 2 weeks before training commencement may not be approved.
- Employers may apply for IWT once every 3 years.
- Applications are to be received and reviewed by a Business Services Team representative and those that qualify will be forwarded to the manager for approval and funding obligation.

U.S. Department of Labor Funding Restrictions

- Businesses who participate in an incumbent worker training program must agree to comply with the requirements of the Fair Labor Standards Act, including maintaining the employment and compensation of participants for the duration of the training, unless the maintenance of employment or compensation would be inconsistent with similarly situated employees who are not participating in the training.
- Funds may not be used to entice a business to relocate to Montgomery County, MD. A business must be established within the county for a minimum of 120 days prior to beginning incumbent worker training.
- Businesses must maintain the same health and safety standard and working conditions for participants as the business does for non-participants.
- Incumbent worker training cannot consist of On-the-Job-Training. Incumbent worker funds cannot be used to pay for participants' wages.
- A participant in an IWT may not displace a current employee as of the date of the training (displacement is a reduction in hours, wages or benefits either in whole or in part).
- An IWT cannot impact an existing contract for services or collective

bargaining agreement (CBA). If the terms of training are inconsistent with the CBA, the labor organization must agree, in writing, to allow the project.

- A participant in an IWT shall not be funded for training if any other individual is on layoff for the same or equivalent job in the same business unit or department, or the business has terminated the employment of any regular employee or otherwise reduced their workforce with the intention of filling the resulting vacancy with the participant.

Conflict of Interest

No grantee, contractor, sub-grantee, or sub-contractor will engage in any conflict of interest, real, implied or apparent, in the selection, award or administration of a WIOA funded contract or grant. IWT contracting must be conducted by training professionals and employers in a manner that is objective and independent of personal interests. A business or organization represented on the WSM's WDB may employ IWT workers if the same standards for selecting IWT employers who are not members of the WDB are applied, and the WDB member does not participate in the process to select IWT Employers.

Performance Accountability

Incumbent workers are not subject to performance requirements of WIOA. As such, incumbent workers are not considered "participants" for inclusion into the Local Area's performance metrics calculations. The performance requirements of each project shall be established in negotiation between WSM and the business, and shall be specified in the training plan.

REPORTING AND MONITORING

The standards for performance accountability must meet Federal and State Rules & Policies. In addition, the following processes & procedures must be followed:

- No reimbursement of training funds will be granted without prior application approval and authorization. Reimbursement cannot be applied retroactively.
- Project application must be submitted and approved by the WSM review team prior to the start of training.
- WSM Business Services Consultants are responsible for orchestrating contracts with business applicants.
- The business must explain how the training will lead to retention and growth of its workforce.
- Training completion must result in a participant wage increase within 90 days of completion.
- Incumbent worker employer participants must complete a WIOA application that will be entered into the Maryland Workforce Exchange.
- The business must aim to provide training of incumbent workers in skills that result in the employee(s) obtaining an industry recognized certification or credential.

- Payment is reimbursed only after the submittal to WSM of proof of training attendance, successful completion of training and credential is received.
- 50% reimbursement is provided within 45 days of receiving documentation of training completion.

DISCLAIMER

This policy is based on WSM's interpretation of the statute, along with the Workforce Innovation and Opportunity Act; Final Rule released by the U.S. Department of Labor and federal and state policies relating to WIOA implementation. This policy will be reviewed and updated based on any additional federal or state guidance.