

	<b>Policy No: P-212</b>
	<b>Effective Date: 7/1/19</b>
	<b>New <input checked="" type="checkbox"/> Revised <input type="checkbox"/></b>
<b>INCUMBENT WORKER TRAINING</b>	

**Purpose**

Incumbent Worker Training (IWT) provides both workers and employers with the opportunity to build and maintain a quality workforce and is governed by sections 20 CFR 680.780 through .820 of the Final Rule.

Incumbent worker training 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 and conducted with a commitment by the employer to retain or avert the layoff of the incumbent worker.

An ideal incumbent worker training would be one where a participant acquires new skills allowing him or her to move into a higher skilled and 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 must increase both a participant’s and a company’s competitiveness.

This following policy outlines the allowance for and criteria to determine which workers, or groups of workers, are eligible for incumbent worker training services and the cost sharing required for incumbent worker training projects both when utilizing WIOA funds (WIOA Section 134(d)(4)) and when utilizing non-federal, unrestricted funds.

**References**

- WIOA Section 3(23)
- WIOA Section 134(d)(4)
- 2 CFR 200.306
- 20 CFR 680.780, 680.790, 680.800, 680.810, 680.820, 682.210(b), and 682.320(b)(4)
- Training and Employment Guidance Letter (TEGL), 3-15
- Training and Employment Guidance Letter (TEGL), 19-16
- Workforce Innovation and Opportunity Act of 2014

**Policy**

SOWIB may allocate up to 20 percent of their adult and dislocated worker funds to provide for the federal share of the cost of providing incumbent worker training, in accordance with Section 134(d)(4) of WIOA. This 20 percent can be used for IWT activities that are programmatic in nature, as administrative activities must be paid out of the Board’s administrative funds.

SOWIB will follow the Incumbent Worker Eligibility Criteria as detailed in the policy guidelines and adheres to TEGL 19-16 when utilizing WIOA funds.

SOWIB will follow the Employer Eligibility Criteria as detailed in the policy guidelines. Additionally, SOWIB will review the potential number of layoffs averted as a result of this training and utilization as part of a larger sector and career pathway strategy that aligns with our identified industry clusters in the region to prioritize training funds if needed when utilizing WIOA funds. Incumbent worker training will only be available if all eligibility criteria are met and the employer can meet the cost share requirements of the training.

SOWIB will utilize Rapid Response funds for layoff aversion and WIOA Governor's discretionary funds for incumbent worker training activities according to WIOA Section 134(a)(3)(A)(i), if need is identified and funding opportunities are available.

At the discretion of the Director or designee, SOWIB may also allocate non-federal, unrestricted funds as needed to provide incumbent worker training when appropriate. Trainings that are reasonable and are a benefit to the local community, but may not meet all WIOA criteria, or would be in excess of available WIOA funds, may be provided.

### **Incumbent Worker Eligibility Criteria**

An incumbent worker must be:

1. Age 18 or older;
2. Employed;
3. Meet the Fair Standards Act requirements for an employer-employee relationship <http://www.dol.gov/whd>; and
4. Have an established employment history with the employer of six (6) months or more.

If incumbent worker training is provided to a cohort of employees, not every employee in the cohort must have an established employment history with the employer of six months or more as long as a majority (51 percent or more) of the employees being trained meet the employment history requirement.

An incumbent worker does not have to meet the eligibility requirements for 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. IWT is not permitted to be used to provide the occupational training a new hire needs.

### **Employer Eligibility Criteria**

SOWIB must determine an employer's eligibility for participating in IWT based on the following factors which help to evaluate whether training would increase the competitiveness of the employees or both the employees and the employer:

1. The characteristics of the incumbent workers to be trained and how historically they represent individuals with barriers and how such individuals would benefit from retention or advancement. Consideration should be given to employers who propose to put forth extra effort to train individuals with barriers to employment as defined in WIOA Section 3(24);
2. Provide a quality of training which would, whenever possible, allow the participant to gain industry-recognized training experience and/or lead to industry-recognized credentials and/ or an increase in wages;
3. The number of participants the employer plans to train or retrain;
4. The wage and benefit levels of participants (before and after training);
5. The occupation(s) for which incumbent worker training is being provided must be in demand;
6. The employer is:
  - a. In an in-demand industry as determined by OED labor market information; or
  - b. In an in-balance industry as determined by OED labor market information; or
  - c. In a declining industry, but there are compelling reasons (e.g., evidence of long-term viability of the employer) justifying investment in incumbent worker training.
7. The employer must not have laid off workers within 120 days to relocate to Oregon from another state;
8. The employer is current in unemployment insurance and workers' compensation taxes, penalties, and/or interest or related payment plan.

SOWIB will also evaluate the potential number of layoffs averted as a result of this training and utilization as part of a larger sector and career pathway strategy that aligns with our identified industry clusters in the region to prioritize training funds if needed. SOWIB may also prioritize employers based on their overall efforts to develop a more competitive workforce within the region and those that show ongoing apprenticeship training models. Additionally, employers that show continued opportunities for incumbent workers to advance and increase wages within their company may be prioritized.

Each of the above factors leading to the approval of an incumbent worker training project with an employer must be documented and placed in the contract file when utilizing WIOA funds. When non-federal, unrestricted funds are utilized, SOWIB will determine if the training is reasonable, and a benefit to the community, this will be the only criteria needed, and will be documented.

Generally, IWT should be provided to private sector employers; however, there may be instances where non-profit and local government entities may be the recipients of IWT funds. For example, IWT may be used in the health care industry where hospitals are operated by non-profit or local government entities and a nursing upskilling opportunity is available.

### **Employer Share 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 proposed 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:

- o At least 10 percent of the cost for employers with 50 or fewer employees
- o At least 25 percent of the cost for employers with 51 to 100 employees
- o At least 50 percent of the cost for employers with more than 100 employees

When providing IWT with non-WIOA funds, SOWIB will determine what percentage, if any, of employer match is required.

### **Incumbent Worker Training Data Entry**

Incumbent workers who are served through WIOA Title I (i.e., Adult Formula, Dislocated Worker Formula, National Dislocated Worker Grant, Governor's 15% Discretionary, Statewide Rapid Response) grant funds must be affiliated with an employer, training start date, and fund source in order to satisfy requirements of the U.S. Department of Labor's WIOA-affiliated Participant Individual Record Layout (PIRL). In addition, all WIOA funded participant data will be recorded in the most current MIS system and SOWIB's file management system, non-WIOA funded incumbent workers will only be recorded in the latter.

Any discrepancies arising between SOWIB policy and/or procedures with federal and state provisions due to current or future revisions will default to the current minimum federal and state regulations and guidance available. SOWIB policy and or procedures may set forth stricter requirements than provided by federal and state guidance, but in no case will SOWIB policy and/or procedures not meet minimum federal and state policy.