

COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF WORKFORCE DEVELOPMENT

**GUIDANCE NAME:** WIOA Guidance on Incumbent Worker Training Programs (IWT)

**GUIDANCE NUMBER:** 16-003

**DATE OF ISSUE:** Issued April 1, 2016; Reissued April 4, 2024

**EFFECTIVE DATE:** April 1, 2016

**APPLIES/OF INTEREST TO:** Kentucky Career Center (KCC) Staff and Local Workforce Development Area (LWDA) staff

**POINT OF CONTACT:** Department for Workforce Development (DWD), [workforce@ky.gov](mailto:workforce@ky.gov)

---

**HISTORY:** Initially issued 04/01/2016 in preliminary form; reissued April 4, 2024 with no substantive change, thus effective date remains.

---

**BACKGROUND:** WIOA's primary focus beyond reauthorizing core workforce investment programs is to get employers and employer associations more actively involved in planning and providing training. The legislation reforms the system to promote training for existing, in-demand jobs – training aligned with business needs and state and local economic development plans. Customized training, On the Job Training (OJT), incumbent worker training, transitional jobs, and registered apprenticeships are all identified as work-based training services. Each of these work-based training models can be effectively used to target different jobseeker and employer needs.

WIOA explicitly allows for incumbent worker training at the local level.

Incumbent worker training is designed to increase the competitiveness of the employee and employer. Incumbent Worker training can be used to help avert potential layoffs of employees, or to increase the skill levels of employees so they can be promoted within the company and create backfill opportunities for the employers.

Under WIOA Section 134(d)(4), local boards can use up to 20 percent of their adult and dislocated worker funds to provide for the federal share of the cost of providing Incumbent Worker services.

Per WIOA Section 134(a)(3)(A)(i), the State may use state Rapid Response funds for layoff aversion and WIOA Governor's discretionary funds for statewide incumbent worker training activities.

---

**PURPOSE:** To clarify criteria to be included in a local area plan, by which Local Workforce Development Areas (LWDAs) determine which workers, or groups of workers, are eligible for incumbent worker services and the cost sharing required for incumbent worker training projects.

---

## **DEFINITIONS:**

**Incumbent Worker:** An individual who is employed, meets Fair Labor Standards Act requirements for an employer-employee relationship, and has an established employment history with the employer for 6 months or more.

**Incumbent Worker Training (IWT):** Training designed to meet the special requirements of an employer (or group of employers) to retain a skilled workforce or avert the need to lay off employees by assisting workers in obtaining the skills necessary to retain employment and conducted with a commitment by the employer to retain or avert laying off incumbent worker(s) that are trained in order to increase the competitiveness of the employee and/or employer.

**In-Demand Industry Sector or Occupation:** In general:

(i) an industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the state, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors; or

(ii) an occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the state, regional, or local economy, as appropriate. The determination of whether an industry sector or occupation is in-demand shall be made by the state board or local board, as appropriate, using state and regional business and labor market projections, including the use of labor market information.

---

## **GUIDANCE:**

### **IWT Project Requirements**

Eligibility criteria:

#### **An incumbent worker is:**

- Pursuant to 20 C.F.R. 680.780: An employed individual who meets the Fair Labor Standards Act requirements for an employer-employee relationship and has an established employment history with the employer for six months or more; and,
- At least 18 years of age; and,
- A citizen of the United States or a non-citizen whose status permits employment in the United States;
- A worker who needs to be trained that is working at a facility located in Kentucky; for the purpose of these funds; and,
- In need of training for employability competitiveness and does not necessarily have to meet

eligibility requirements for WIOA Individualized Career services.

*\* Per 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.*

### **Incumbent worker training is:**

- For a qualified incumbent worker(s);
- For an employer (or a group of employers) with an established relationship and needs assessment;
- Designed to meet the special requirements of the 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;
- Targeted to improving the skills and competitiveness of the participant and increasing the competitiveness of the employer;
- Assisting the workers in obtaining an industry recognized skill necessary for employability competitiveness and to retain employment;
- For an in-demand sector/occupation(s) defined by WIOA Section 3(23) and as determined by workforce development area-specific labor market information produced by the Department for Workforce Development (DWD);
- Conducted with the commitment of the employer to retain or avert the layoffs of the incumbent workers trained; and
- Proportionately funded by the employer or group of employers. Employers must pay for a portion of the cost of providing the training to incumbent workers;
- The federally funded portion of IWT may also be funded with adult or dislocated worker formula dollars or with statewide rapid response funds.
- And is a training that may lead to an increase in wages within the company within six months after the completion of training;

### **IWT Performance Requirements:**

Businesses awarded an IWT contract should be required, at minimum, to do the following:

- Conduct the training as described in the IWT contract application;
- Request approval from the LWDA staff regarding any changes in the training;
- Keep accurate records of a training project's implementation and certify that all information provided for the purpose of requesting reimbursements and reporting training activity are accurate and true.
- All records and expenditures are subject to review by designated Kentucky Career Center staff at any time. Records that should be submitted include:

1. A training plan/course description for the training project from the trainer or training institution. The training plan/course description must include:

- A course description;
- The class schedule (dates, times, groups);

- The class location;
- Expected training outcomes (goals);
- An explanation of how training will avert layoffs, if applicable;
- The number of training hours;
- The training syllabus or outline; and
- The credentials to be earned (if any) upon completion.

2. Pre-training class rosters showing all the Incumbent Worker participants (including position titles) enrolled in the training project and a certification that all trainees are legal employees of the business. Prior to the beginning of training session, the LWDA staff should collect the following information on each participant:

- Legal Name and date of birth of the Trainee
- Participant's home address & phone number
- Social Security Number
- Participant's Gender, Race/Ethnicity, & Citizenship status
- Participant's Veteran Status & Selective Service compliance (as applicable)
- Participant's Education & Employment Status
- Participant's Income Status
- Participant's Employment Preferences, Objective & Desired O\*Net
- Does the trainee identify themselves as:
  - A Persons acknowledging a Disability
  - A Veteran/Spouse of a Veteran
  - Non-English Speaking
  - A Recipient of Public Assistance
  - Low income
  - Basic Skills Deficient

3. Upon completion of training, a copy of each trainee's certificate/credential (if applicable), each participant's hourly wage, sign in sheet (if applicable) and a completed participant report should be submitted.

- Submit training progress reports as agreed in the executed contract between the training start and end dates.

**IWT Employer Requirements and Responsibilities:**

LWDAs should complete an employer needs assessment. This assessment should consider the following factors below when determining the eligibility of employers to receive WIOA funds to provide training to incumbent workers:

- The employers' training need is for:
  - a. an in-demand sector /occupation as defined by WIOA Section 3(23) and as determined by workforce development area-specific labor market information produced by the Department of Workforce Development (DWD); or
  - b. 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; and
  - c. averting a layoff and to remain competitive in the marketplace;
- The priority of service characteristics of the incumbent workers to be trained, specifically the extent to which they historically represent individuals with barriers to employment as defined in WIOA Section 3(24), and how each would benefit from retention or advancement;
- The quality and expected outcomes of the training (e.g., industry-recognized credentials, advancement opportunities);
- The employers "for-profit" and/or "not for-profit" status;
- The employer should be located in Kentucky and in operation for a minimum of 3 year prior to the application for funding date;
- The size of the employer, if the employer has multiple locations the IWT requirements apply to the location specified on the IWT funding contract;
- The availability of other employer-provided training and advancement opportunities;
- The employer's history with IWT and has the employer applied for other or additional financial assistance to meet this need or a like need;
- The number of participants the employer plans to train or retrain;
- The wage and benefit levels of participants (before and six months after training);
- The employer will backfill employee positions through Kentucky Career Center services, if applicable;
- The employer(s) is current and will document that they or the group of employers are in good standing with the Kentucky Secretary of State. The employer(s) must also be in compliance with all federal, state and local tax laws and current with all federal, state and local taxes payable by the employers to those government bodies; and
- As a condition to the award of financial assistance from the Department of Labor under Title 1 of WIOA, the employer must also assure, that they will comply fully with the nondiscrimination and equal opportunity provisions of the following laws, per LWDA documented onsite visits:
  - Section 188 of the WIOA and the regulations implementing the law which prohibit

- discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title 1-- financially assisted program or activity;
- Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color and national origin;
  - Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
  - The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
  - Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs or activities; (\*All necessary assurances and certifications must be submitted by the employer.) and
- The businesses must provide a preplanned matching contractual contribution to the training program. This contribution can be cash or non-cash goods and services such as: wages paid to the trainees during the training, equipment purchased to be used in the training, training materials and supplies, curriculum development, skill testing and assessment, facility usage, and instructor or trainee travel expenses; and
  - Other factors the State or local boards may determine to be appropriate and the existence of other training and advancement opportunities provided by the employer.

### **IWT Fiscal Requirements**

#### **Use of Funds for Incumbent Worker Training Activities:**

The LWDA will use program funds to reimburse employers providing incumbent worker training on a graduated scale based on the size of a business. Such participating employers must pay the remaining share of the costs not covered by WIOA program funds for providing such training. The local area shall contractually establish the employers' share of cost, taking into consideration factors referenced in the Employer Requirements and Responsibilities.

Employers are required to pay for a significant cost of the training for those participants in incumbent worker training; this can be done through both cash and/or in-kind payments. The wages paid to participants, while in training, may be considered as a source of matching funds. Official payroll records documenting the worker's hours and wages must be utilized to determine the amount of the employer's share of cost. Rules for matching funds are provided in the Uniform Guidance and DOL exceptions at 2 CFR 200.306 and 2 CFR 2900.8, respectively. Under Section 134(d)(4)(D) of WIOA, the minimum amount of employer share in the Incumbent Worker Training depends on the size of the employer:

- for employers with 50 or fewer employees the employer must contribute at least 10 percent

- of the cost;
- for employers with 51 to 100 employees the employer must contribute at least 25 percent of the cost; and
- for employers with more than 100 employees the employer must contribute to at least 50 percent of the cost.

Local areas desiring to use formula funds for incumbent worker projects must document the use up to 20 percent of their dislocated worker and/or adult formula funds to support an incumbent worker project. The documentation must contain the following information:

- copy of the employers' request/application to the local area;
- a description of the incumbent worker training to be provided; and a
- post training evaluation of the training.

Local areas may apply for Rapid Response Layoff Aversion funds to support an incumbent worker project as part of a layoff aversion strategy if the area has insufficient or exhausted current funds.

States may make recommendations to the local boards for providing incumbent worker training that has a statewide impact.

### **IWT Reporting Requirements**

#### **Fiscal Reporting Requirements:**

- Incumbent workers served with formula funds must be reported and included in performance. To meet these requirements, all incumbent workers served with formula funds must be reported on quarterly per Attachment A.
  - Each local area will be required to complete Attachment A: LWDA Quarterly Incumbent Worker Report indicating the number of incumbent worker contracts, total incumbent workers served, total budget and expenses, and what WIOA grants were charged for incumbent worker expenses. Additionally, the local area must identify the sector and the number of incumbent worker contracts in each sector. An electronic form will be sent to the local areas via email and should be completed and returned via email on the 20th of the month following the end of each quarter Employer Customer Services Branch Manager/State Rapid Response Coordinator in the Division of Employment Services, Department of Workforce Development (DWD). If there are no incumbent worker activities for the quarter, the local area must complete the quarterly report and check the "N/A" box in each of the three categories on the form.
- DWD requires local areas to track the incumbent worker contract expenses in their accounting system to identify which WIOA grants the contracts are charged against, per the

IWT tracking component to be added to the WORK system.

- Incumbent workers will be reported in the PIRL (Participant Individual Record Layout) by DWD under element number 911.
- DWD recommends local areas track IWT expenditures to comply with the Common Rule (29 CFR 97.20), Standards for financial management systems, which states that: “Fiscal control and accounting procedures of the State, as well as their sub grantees, must be sufficient to... (2) Permit the tracking of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.”
- DWD will monitor local areas for compliance during their scheduled WIOA monitoring visits.

### **IWT Project and Participant Reporting Requirements:**

- Training participants are not subject to the eligibility requirements under WIOA Sections 122(a)-(f), but the employer is required to provide performance information. The LWDA is required to collect and enter IWT participant and service information into the Case Management System of Record. The individual employees’ information at a minimum, should include:
  - Legal Name and date of birth of the Trainee
  - Participant’s home address & phone number
  - Social Security Number
  - Participant’s Gender, Race/Ethnicity, & Citizenship status
  - Participant’s Veteran Status & Selective Service compliance (as applicable)
  - Participant’s Education & Employment Status
  - Participant’s Income Status
  - Participant’s Employment Preferences, Objective & Desired O\*Net
  - Does the trainee identify themselves as:
    - A Persons acknowledging a Disability
    - A Veteran/Spouse of a Veteran
    - Non-English Speaking
    - A Recipient of Public Assistance
    - Low income
    - Basic Skills Deficient
- IWT service for each training participant must be entered into the Case Management System of Record. DWD will set up the IWT service in the Case Management System of Record and the LWDA will attach each IWT participant to the pre-set IWT service in Case Management System of Record in the following manner:



1. At the LWDA approval of the IWT project the LWDA must submit Attachment B “IWT Service Form for Case Management of Record” to the DWD Office of Employer & Apprenticeship Services.
  2. Then DWD will enter the IWT service per Attachment B in the Case Management System of Record, within 2 business days.
  3. Next DWD will notify the LWDA that the service is ready in the Case Management System of Record to attach training participants.
  4. The LWDA will add each training participant to the pre-set IWT service in Case Management System of Record.
- States and local areas that utilize incumbent worker training are directed to ensure contracts with employers provide sufficient information to include participants in reporting.
  - Local areas contracts must include:
    - Contract Certifications;
    - Contract Assurances;
    - Compliance criteria and
    - Reporting requirements.
  - A training progress report is required. The LWDA program staff monitors and serves as a project liaison therefore there must be ongoing documented communication with the businesses regarding the progress of training. A training progress report should include documentation of communication with LWDA program staff, such as course substitution requests, e-mails or phone calls regarding status checks of the training project and communication during the reimbursement process. The LWDA should advise the specific requirements of this training progress report, to include content requirements, time frame, and other matters with information to be included in the executed contract.
  - At the completion of the contract, a final report on the IWT must be due no later than 60 days from the end of training. The final report must detail the progression of IWT training participants along with the final outcomes achieved. The LWDA must have this report at the time of final reimbursement. Once the report is received, the final reimbursement should be released. (Businesses will also need to keep accurate records of the project’s implementation process to certify that all information provided for the purpose of requesting reimbursements and reporting training activity is accurate and true for a period of at least five (5) years.)

---

**REQUIRED ACTION:** LWDAs and their contractors, as well as DWD and KCC staff should distribute this policy broadly throughout the system to ensure that workforce development

system staff is familiar with its content and requirements.

LWDAs should review current processes and procedures for compliance per effective date of this policy and update their LWDA WIOA Incumbent Worker Training Program policy and plan for their local plan.

---

**REFERENCES:**

- Workforce Innovation and Opportunity Act Section 134(d) and (a) (29 USC Section 3174).
  - 20 CFR Section 680.780.
  - Workforce Innovation and Opportunity Act Section 3(23) and (24) (29 USC Section 3102).
  - Workforce Innovation and Opportunity Act Section 188 (29 USC Section 3248).
  - Title VI of the Civil Rights Act of 1964 (42 USC Section 2000d, et. seq.).
  - Section 504 of the Rehabilitation Act of 1973 (29 USC Section 794).
  - Age Discrimination Act of 1975, as amended, (42 USC Section 6101, et. seq.).
  - Title IX of the Education Amendments of 1972, as amended, (20 USC Section 1681, et. seq.).
  - 2 CFR Section 200.306 and 2 CFR Section 2900.8.
  - 29 CFR Section 97.20.
  - Workforce Innovation and Opportunity Act Sections 122(a)-(f) (29 USC Section 3152).
-

**ATTACHMENT A:**

**LWDA QUARTERLY INCUMBENT WORKER**

Local Workforce Development Area Select LWDA

Quarter Ending:

<b>Current Incumbent Worker Contracts Funded through FORMULA FUNDING</b>			
Number of Incumbent Worker Contracts			<input type="checkbox"/> N/A
Number of Incumbent Workers Served			
Total Budget of Incumbent Worker Contracts			
Total Expenses of Incumbent Worker Contracts			
WIOA GRANTS CHARGED FOR INCUMBENT WORKER EXPENSES <i>(Formula funded contracts only)</i>			
<b>The sector (below) and the number of incumbent worker contracts in each sector:</b>			
Automotive /Aircraft Manufacturing		Education	
Business Services and Research & Development		Food and Agriculture	
Energy Creation/Transmission		General	
Healthcare and Social Assistance		Information Technology	
Transportation Distribution and Logistics		Maintenance	
Advanced Manufacturing		Skilled Trades	
Defense-related		Other	
<b>Current Incumbent Worker Contracts Funded through RAPID RESPONSE FUNDING</b>			
Number of Incumbent Worker Contracts			<input type="checkbox"/> N/A
Number of Incumbent Workers Served			<input type="checkbox"/> N/A
Total Budget of Incumbent Worker Contracts			
Total Expenses of Incumbent Worker Contracts			
WIOA GRANTS CHARGED FOR INCUMBENT WORKER EXPENSES <i>(RR funded contracts only)</i>			
<b>The sector (below) and the number of incumbent worker contracts in each sector:</b>			
Automotive /Aircraft Manufacturing		Education	
Business Services and Research & Development		Food and Agriculture	
Energy Creation/Transmission		General	
Healthcare and Social Assistance		Information Technology	
Transportation Distribution and Logistics		Maintenance	
Advanced Manufacturing		Skilled Trades	
Defense-related		Other	

Report Submitted by:

Date of Report

**ATTACHMENT B**

**Incumbent Worker Training (IWT) Service Form for the Case Management System of Record**

Please complete the following to establish an IWT project service description in CMSR:

<b>Date:</b>	
<b>Local Workforce Development Area :</b>	Select LWDA
<b>LWDA Contact:</b>	
<b>IWT Provider Information Needed</b>	
<b>Federal ID (FEIN):</b>	
<b>State ID (EIN):</b>	
<b>Organization Type:</b>	
<b>Provider Name:</b>	
<b>Provider Phone:</b>	
<b>Location Name &amp; Address:</b>	
<b>IWT Provider Contact Name &amp; Address:</b>	
<b>IWT Service Information Needed</b>	
<b>Service Name:</b>	
<b>Description:</b>	
<b>Total Service Length: (weeks/days/hours)</b>	
<b>Onet Title:</b>	

**DWD will set up the IWT service in CMSR as IWT\_Name of Service. Once completed then DWD will notify the LWDA the establishment of the IWT service in the Case Management System of Record, for the entering of each IWT training participant at the start of training.**