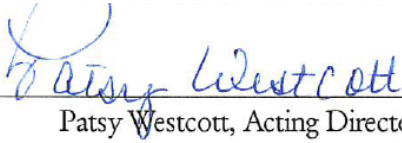


State of Alaska Department of Labor and Workforce Development

Division: Employment and Training Services	Policy: 07-529.2
Subject: WIOA Incumbent Worker Training	Pages: 4
References: Workforce Innovation and Opportunity Act (WIOA) , Public Law 113-128 ; 20 CFR Part 680.530 ; 20 CFR Part 680.800-840 ; Fair Labor Standards Act	Effective: 12/28/2016 Revised: 12/3/2018
Approved:  Patsy Westcott, Acting Director	<u>12/5/18</u> Date

1. Parties Affected

This policy applies to Division of Employment and Training Services (DETS) staff, Alaska businesses and their employees.

2. Background

Section 134 (d)(4) of the Workforce Innovation and Opportunity Act (WIOA) stipulates that up to 20 percent of local formula adult and dislocated worker funds may be used for incumbent worker training.

Incumbent worker training is designed to meet the workforce needs of an employer or group of employers by increasing the competitiveness of the business and incumbent workers by ensuring they acquire the skills necessary to retain employment, advance within the business or to provide the work skills necessary to avert a layoff. The training is conducted with a commitment by the employer to retain the incumbent worker(s) who are trained.

Incumbent workers are employed at the time of their participation and WIOA funds are paid to the employer for the costs of the training provided to 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 business, thus allowing the organization to hire a job seeker to backfill the incumbent worker's position.

Incumbent worker training may also be an appropriate service that would help an individual move up a career ladder within an apprenticeship program. This in turn allows businesses to remain competitive, become more productive and increase job opportunities for local residents.

Incumbent worker training is not subject to the requirements of the Eligible Training Provider List; however participants in incumbent worker training programs must be registered in the DETS individual case management system and reported in the federal WIOA performance system. Incumbent workers are not included in the federal performance measure calculations.

3. Policy

Incumbent worker training projects must consist of an employer-employee relationship as defined in the [Fair Labor Standards Act](#); the incumbent worker must have an established employment history of at least six months¹ with the employer; training must increase the competitiveness of the business and/or the incumbent worker; and the training must be job-specific and result in benefits to the incumbent worker such as enhanced employability, job upgrades, increased wages, and/or increased job security.

Incumbent worker training proposals must be submitted at least 30 days prior to the training start date. Exceptions to the time frame may be granted if extenuating circumstances are present.

Proposals may be submitted at any time during the state fiscal year which begins on July 1 and ends June 30. Training projects must be completed by the end of the fiscal year, June 30.

Employers may receive one incumbent worker award per state fiscal year. If the employer has already received a training grant award from DETS through another funding source the proposed training must be non-duplicative.

DETS promotes the creation of new USDOL Nationally Recognized Apprenticeship programs. Employers may be eligible to utilize incumbent worker training for apprenticeship programs that are within the first five years of sponsorship.

The Director of the Division of Employment and Training Services is responsible for reviewing and making determinations on incumbent worker training proposals. All funding decisions will be based on the validity of the project and available funding.

Employer Requirements - Employers must ensure the worker is being paid at least the greater of 50 percent of the mean (average) wage for the occupation in the region as determined by data from the Department's Research and Analysis website <http://live.laborstats.alaska.gov/wage/>; **OR \$15 per hour**. If the employee wage does not meet this threshold, the employer may choose to raise it to that level to be eligible to qualify for incumbent worker training funds.

¹ Have an established employment history with the business for six (6) months or more- **unless** the incumbent worker training is provided to a cohort of employees. In this situation, not every employee in the cohort must meet the six month employment history as long as the majority of the employees being trained meet the employment history criteria.

Participating employers must provide a contribution to the incumbent worker training project depending on the size of the organization. This contribution should include the wages paid to workers during the time the workers are in training, as well as other in-kind contributions.

Employer contribution rates are:

50 or fewer employees = 10 percent

51-99 employees = 25 percent

100 or more employees = 50 percent

Consortium – is a group of employers who are represented by a singular entity and may apply for incumbent worker training projects. The consortium may be a training provider, educational institution, or an industry association. Unions are not considered a consortium as a union is defined as an association formed by individuals (not employers) with a common interest or purpose. A consortium must:

- serve employees of at least two different businesses in the same industry sector;
- be a non-business entity that can apply on behalf of the businesses as the administrative entity (can also be the training provider); and
- provide training descriptions and outcomes for the employees from each business participating in the proposed training.

Employee Eligibility - Employees eligible to participate in the incumbent worker project must:

1. be a U.S. citizen or otherwise legally entitled to work in the U.S.;
2. be age 18 or older;
3. is registered with Selective Service if male and born on or after January 1, 1960, unless an exception is justified;
4. not be directly supervised by an immediate family member²;
5. must have an established employment history with the business for six months or more;
6. be in an employer-employee relationship as defined by the [Fair Standards Act](#); and
7. be an Alaskan resident working at a physical location in Alaska.

Allowable types of training include:

- occupational skills training to meet requirements of a business or industry;
- upgrading of required certifications;
- professional development (e.g., leadership training);
- training in strategies to improve efficiency of business operations; and
- technical or hard skills training such as computer software training.

² Immediate family is defined per 20 CFR 683.200(g) as spouse, child, son-in-law, daughter in-law, parent, mother-in-law, father-in-law, sibling, brother-in law, sister-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, and grandchild;

Unallowable types of training -Training that is inherent to the course of business or does not result in increasing the competitiveness of the business, or benefit the incumbent worker, e.g. enhanced employability, job upgrades, increased wages, etc. is not allowed. Examples include:

- CPR and First Aid;
- mandated safety training (OSHA and other);
- diversity and sexual harassment;
- English as a second language;
- degree programs;
- self-paced learning;
- basic skills or remedial education;
- personal development courses;
- workplace literacy or soft skills; and
- non-job related training.

Projects are **NOT** eligible for training funds if:

1. the employer has any other individual on layoff from the same or substantially equivalent position that the incumbent worker is being trained for;
2. the project will infringe upon the promotion of or displacement of any currently employed worker or a reduction in their hours;
3. the same or a substantially equivalent position the employee will be trained for is open due to a hiring freeze;
4. the position(s) are for seasonal employment; or
5. the position is not full time, i.e. minimum of 32 hours per week.

4. Definitions

- a) **Administrative Costs** - Administrative costs are associated with activities related to administrative functions that support the provision of services to participants and are generally associated with accounting, budgeting, payroll and procurement.
- b) **Consortium** is a group of employers being represented by a singular entity.
- c) **Employer** is a person or organization that employs individuals
- d) **Fair Standards Act** defines an employer-employee relationship
<https://www.dol.gov/whd/regs/compliance/whdfs13.htm>
- e) **Formula funds** – a statutory formula is applied to overall WIOA title 1B funds to determine the amount of annual grant funds that each state receives.
- f) **Incumbent Worker** is an employee of an organization that has worked for the organization for six months or more.
- g) **In-kind Contribution** is the fair market value of the goods and services that are contributed or donated by a grant recipient or other persons in support of a project funded by the Division. Examples include the wages paid to employees, the use of services or facilities, expertise in the form of staff time, contribution of supplies, equipment or special materials etc.