

	<b>New Jersey Workforce Innovation Notice</b>		<b>WD-PY21-4</b>
	<b>Issued By:</b>	Workforce Development Division of Career Services	
	<b>Approved By:</b>	Hugh Bailey, Assistant Commissioner Workforce Development	
	<b>Issued Date:</b>	December 16, 2021	

**SUBJECT:** Incumbent Worker Training under the Workforce Innovation and Opportunity Act

**PURPOSE:** To provide guidance to local workforce development boards regarding the use of Workforce Innovation and Opportunity Act (WIOA) Title I Adult and Dislocated Worker funds to pay for Incumbent Worker Training.

**EFFECTIVE DATE:** This NJWIN is effective **Immediately** and replaces NJWIN 9-16.

**BACKGROUND:** Incumbent Worker Training (IWT) offers Local Workforce Development Boards (WDBs) resources for working with employers to support training of existing employees that need additional skills to maintain their position or advance in the company.

Incumbent Worker Training (IWT) must:

- Increase the competitiveness of the employee and employer.
- Be carried out by the local board in conjunction with an employer or group of employers (which may include employers in partnership with other entities for the purposes of delivering training).
- Be designed to meet the special requirements of an employer (or group of employers as described above) 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 or avert layoffs.
- Be consistent with State and Local Plans, as well as with career pathway and sector strategy approaches for in-demand occupations.

This policy provides an overview of IWT and how Local WDBs can leverage and operationalize these training opportunities. This includes information highlighted in NJWIN 9-16 and replaces that policy.

## **POLICY OVERVIEW**

Incumbent Worker Training (IWT) under WIOA provides both workers and employers with the opportunity to build and maintain a quality workforce and increase both participants' and companies' competitiveness. IWT offers resources to support training and upskilling opportunities within an employer or a group of employers, often in partnership with other entities delivering external training. These training opportunities support existing employees in obtaining new skills that will support their retention and/or advancement in a company.

The two key objectives of Incumbent Worker Training funded through WIOA are to:

- Help avert potential layoffs of employees, or
- Increase the skill levels of employees so they can be promoted within the company and create backfill opportunities for the employers.

The Local WDB 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:

- The characteristics of the individuals in the program (e.g. individuals with barriers to employment)
- Whether the training improves the labor market competitiveness of the employees or both the employees and the employer
- The benefit of the training to employees – i.e., the number of employees participating in the training, the wage and benefit levels to employees, as well as skill gains and credential attainment potential
- Evidence of the employer's commitment to training and advancement opportunities for their employees overall
- Alignment with a larger sector and/or career pathway strategy
- The employer size and financial resources of the employer to support training and advancement opportunities
- The potential for averting layoffs

In addition, a majority of individuals participating in IWT cohorts must have an established employment history with the employer of 6 months or more. This may include time as a temporary or contract-worker performing work for the employer.

To receive IWT, an incumbent worker does not have to meet the eligibility requirements for participation in 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.

Specific outcomes data must be collected and reported in AOSOS for all individuals participating in IWTs – including information about employment retention and wage levels. Incumbent Worker Training participants that are not enrolled as Title I participants are reported as WIOA Reportables to the United States Department of Labor (USDOL) and are not included in WIOA performance measures.

Local WDBs may reserve up to a maximum of 20 percent of their combined Title I Adult and Dislocated Worker allocations to pay for the federal share of the cost of IWT activities that are programmatic in nature. 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. Support of IWT in local government entities must not exceed 10 percent of combined Title I Adult and Dislocated Worker allocations.

This policy provides an overview of specific guidance related to eligibility, program details and expectations, and documentation and data entry requirements to support oversight and monitoring locally and ensure appropriate reporting to USDOL.

### Participant, Employer, and Role Eligibility

Local WDBs must consider the impact of the IWT on the competitiveness of the participant and the employer when determining eligibility of a proposed IWT.

#### Employer Eligibility

For an employer to receive Incumbent Worker Training funds, individual(s) receiving training must be:

- Employed;
- Meet the Fair Labor Standards Act requirements for an employer-employee relationship; and
- Have an established employment history with the employer for 6 months or more (which may include time spent as a temporary or contract worker performing work for the employer receiving IWT funds).

*Please note: If IWT is being provided to a cohort of employees, not every employee in the cohort must have an established employment history with the employer for 6 months or more, if the majority of employees being trained meets the employment history requirement.*

Furthermore, Local WDBs must consider the following criteria when determining eligibility of an employer to receive WIOA Incumbent worker funds:

- **Connection to in-demand occupations:** The occupation(s) for which incumbent worker training is being provided must be in demand. Employers should be in a high-growth/high-demand sector. If not in a high-growth/high-demand sector, Local WDBs must document compelling reasons (e.g., evidence of long-term viability of the employer) justifying investment in IWT.
- **Standing of the employer:** The employer must not have laid off workers within 120

days to relocate from another state. Additionally, the employer must be current in unemployment insurance and workers' compensation taxes, penalties, and interest, and/or be on a related payment plan.

- **Benefits to employees:** Benefit considerations include the number of employees participating in the training, the wage and benefit levels of those employees (at present and anticipated upon completion of the training), and the existence of other training and advancement opportunities provided by the employer.

In addition, Local WDBs are advised to incorporate additional criteria around:

- **Trainee characteristics:** Local WDBs must consider the characteristics of the incumbent workers to be trained and how they would benefit from retention or advancement. Consideration should be given to employers who propose to train individuals with barriers to employment.
- **Quality of training:** Whenever possible, the training should allow the participant to gain industry-recognized training experience and/or lead to industry-recognized credentials and/ or an increase in wages.

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.

#### Selection of Training Providers

Generally, the employer selects and procures the training provider based on identified employee and employer training needs. If the employer is providing training or has identified a specific training provider of choice, these entities do not have to be on the Eligible Trainer Provider List (ETPL).

Local WDBs may, however, help employers to identify training providers, such as those on the ETPL.

#### Participant Eligibility

Local areas that use funds for IWTs must establish policies and definitions to determine which workers, or groups of workers, are eligible for IWT services. To qualify as an incumbent worker, the incumbent worker needs to be:

- A U.S. Citizen or otherwise authorized to work in the U.S.
- Age 18 or older
- Registered with Selective Service (males who are 18 or older and born on or after January 1, 1960) unless failure to register is determined unwilling or unknowing.
- Meet the Fair Labor Standards Act requirements for an employer-employee relationship
- Have an established employment history with the employer for six months or more. (Exception: When incumbent worker training is provided in a cohort, a majority, but not all, of the employees must have an employment history with the employer of six months or more.)

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 program. Individuals who receive only IWT are reported as WIOA Reportables and are not included in WIOA performance accountability calculations.

### Underemployed Workers

IWT can also be used for underemployed workers—e.g. workers who would prefer full-time work but are working part-time for economic reasons. While these workers are employed, they may have accepted reduced hours to gain or maintain employment or a previous dislocation has led them to accept reduced employment and often lower wages that may have a permanent effect on their careers.

The use of these strategies may focus on increasing skills for underemployed frontline workers in an effort to advance these workers to more skilled positions with the same employer or industry sector leading to an increase in earnings through more work hours or an increase in pay.

#### **Local Incumbent Worker Training (IWT) Policy**

Local WDBs must establish local policies that clarify and define which workers, or groups of workers, are eligible for and a priority for incumbent worker services, based on the guidance provided in this document. These policies must articulate, specifically, processes for documenting the six-month work history of participating employees.

### **Program Details and Expectations**

#### **Employer Share of Training Costs**

Employers who have employees receiving IWT are required to pay the non-WIOA (non-federal) share of the cost of the training. The minimum non-federal share of the incumbent worker training costs are based on the total number of the employers' employees as follows:

<b>Number of Employees</b>	<b>Minimum Employer Share</b>
50 or Fewer	10 Percent
51 to 100	25 Percent
More Than 100	50 Percent

In other words, based on employer size, employers must contribute 10-50% of IWT costs.

The table on page 5 offers minimum contribution levels. Local WDBs may require higher levels of employer contribution based on factors such as:

- The number of employees participating in the training
- The wage and benefits levels of the employees (at the beginning and anticipated upon completion of training)
- The relationship of the training to the competitiveness of the employer and employees
- The availability of other employer-provided training and advancement opportunities.

The employer's payment for the non-federal share can be cash payments, fairly evaluated in-kind contributions, or both.

### **Identification of Quality IWT Opportunities**

Decisions about what IWT opportunities to pursue and the level of employer cost sharing must be driven by a clear understanding of the cost and benefit of the IWT opportunity to participating employees and the employers. Local WDBs must establish information regarding the following before putting a contract into place:

- **Participant Characteristics:** Do potential participants have specific barriers to employment? Priority should be given to incumbent workers with barriers to employment.
- **Employer impact:** How will this training effort contribute to the increased competitiveness of the employer? Priority should be given when the training offers a clear benefit to the employer's competitiveness.
- **Participant impact:** What will the impact of this training be on participants? Priority should be given when the impact of the training leads to gains in wages, advancement in position, credential attainment, and/or includes training of a larger number of participants.
- **Unique value:** Does this training offer a unique PD/training opportunity? The training opportunity must not be duplicative of existing training/PD opportunities within a company and should serve as a complement and addition to exist professional development strategies.

### **Upskill/Backfill Strategy**

As part of an incumbent worker upskilling strategy, Local (WDBs) are also encouraged to develop an upskill/backfill strategy which involves filling jobs vacated by workers who are moving into more advanced positions in the company through IWT opportunities with other WIOA participants.

Local WDBs are encouraged to develop contracts such that once incumbent workers advance with the employer, the employer then provides an opportunity for Local WDBs to fill this now vacant position with a local WIOA participant.

In other words, at its best, Incumbent Worker Training offers advancement opportunities for individuals into new positions, opening up positions that can be made available to existing WIOA participants with job placement support and/or through other work-based training opportunities.

In addition, IWT may be used for upskilling apprentices who already have an established working/training relationship with the Registered Apprenticeship program.

### Training Plans and Contracts

Local WDBs must put in place formal contracts that include training plans based on preliminary assessments of employer cost sharing and training benefits.

Applications for IWT must include a number of different elements relevant to employer, role, and training information. Table 2 provides an overview of these elements.

**Table 2: Training Plan and Contract Elements**

Employer Information	Role Information	Training Information
<ul style="list-style-type: none"> <li>• Company Name</li> <li>• Address</li> <li>• Billing Address (if different than physical address)</li> <li>• City/Zip</li> <li>• Phone</li> <li>• FEIN</li> <li>• DUNS</li> <li>• Employer layoff history</li> <li>• Length of business operations in NJ</li> <li>• Name/Title of Person(s) Authorized to Sign Documents</li> <li>• Employer's Product or Service</li> <li>• Person(s)/Title(s) Responsible for Supervision/Training of Trainee</li> <li>• Number of Full-Time Employees (working 32 hours or more)</li> <li>• Location/Telephone Number of Training/Worksite</li> <li>• Email address</li> <li>• Cost sharing requirements of employer</li> </ul>	<ul style="list-style-type: none"> <li>• Position (Actual Job Title) at start of training</li> <li>• Position (Expected Job Title) at end of training</li> <li>• Industry Name/NAICS Code</li> <li>• Hourly Wage During Training</li> <li>• Hourly Wage at the end of training</li> </ul>	<ul style="list-style-type: none"> <li>• Number of Weeks Requested for Training</li> <li>• Training Period (Dates)</li> <li>• Expected Training Benchmarks</li> <li>• Training Plan, including information about training sequence and trainers</li> <li>• Total expected cost of training</li> </ul>

Signed IWT contracts between the Local WDB and employer must include information from the application, and specific details related to employer criteria identified in the eligibility section. Additionally, contracts should also include clear expectations and provisions around the following:

**Data sharing:** Employers must agree to sharing data about positions, wages, and hours of participating employees at the start of training, at the end of training, and six months out from the end of training. In addition, local areas may choose to require the provision of SSN to support matching data to employment records. Employers must also attest to the registration of individuals for Selective Service.

**Cost reimbursement:** Specific details about the level of cost sharing and expected costs through cash payments and in-kind contributions must be included in contracts.

**Monitoring and oversight:** Employers must agree to participate in monitoring and oversight activities of the Local WDB, including submission of data, completion of information related to participant and employer satisfaction, as well as oversight from NJDOL.

### **Regulatory Limitations and Prohibited Activities**

Funds provided to employers for incumbent worker, or any other work-based training may not be used to directly or indirectly:

- Assist, promote or deter union organizing
- Aid in the filling of a job opening which is vacant because the former occupant is on strike, or is being locked out in the course of a labor dispute involving a work stoppage.

## **Documentation and Data Entry**

### **Overview of Data Entry**

An individual who only receives Incumbent Worker Training and does not become a Title I program participant will not be included in the calculation of the State's primary indicators of performance for negotiations and accountability purposes.

However, states and Local WDBs are required to report the outcomes of individuals in receipt of IWT on the primary indicators of performance:

- Measurable skills gain
- Credential attainment
- Employed 2nd quarter after exit
- Employed 4th quarter after exit
- Median earnings

Although there are fewer required elements for an individual who receives only IWT and is not an Adult or Dislocated Worker, data entry for "IWT-only" individuals provides a record of the

success of IWT opportunities for monitoring the effectiveness of these contracts. The focus of data collection and reporting is on tracking the extent to which incumbent workers are employed after exit, wages over time after the training has ended, and whether measurable skill gains or credentials were attained. Attachment A provides a full list of required data elements as laid out in TEGL 10-16. States and local areas are still required to report participant and performance data on all individuals who receive only incumbent worker training.

For the purposes of calculating these metrics, the exit date for a participant who has only received IWT will be the last date of training, as indicated in the training contract. If the individual receiving IWT is also a participant in another program, the State is required to report that program's performance reporting information.

## **AOSOS Guidance**

### ***Participation Data Entry***

Before training, local areas must record specific information about all participating incumbent workers in AOSOS. Critical information includes:

- Name
- Social Security Numbers (although this information is not required, the collection of this information is preferred to facilitate wage match and employment verification, otherwise these data must be obtained and entered manually)
- Employment status, should be Employed
- Job Seeker status, should be Inactive
- Employment Objective, O\*Net code of training service
- Fill in the Work History tab
  - Job Title/Employer, enter employer information detail
  - Start date of employment (*ensure 6 months' history with employer*)
  - Earnings/Wages prior to training
  - Reason for Leaving, Still Employed
  - Job Duties, brief description of current job duties

Please note that the SkillUp Data Entry Policy WD-PY21-1 offers default data entry options when entering information about WIOA Reportables and "green dot" information is not available.

### ***Provider and Training Data Entry***

After creating or updating individual records with participant information, local areas must record information about the training service in the participant record, as well as an activity highlighting employer engagement in the participating employer's record.

#### ***Provider Details***

Before entering a funded service into participant records, local areas must create a provider associated with the Local WDB specific to Incumbent Worker Training in the "Provider" module,

i.e, County WDB – Incumbent Worker Training. A specific service and offering must be set up in that provider’s record that is specific to each unique Incumbent Worker Training contract. The new service added must include the following information:

- Service Category is Training
- Service Type is Workplace Training
- Service Name is the Name of the Employer receiving the IWT
- Service Description is Incumbent Worker Training
- O\*Net Title must be entered that aligns with the Job Title of participants
- CIP code must be entered that aligns with the instructional focus

#### *Employer Activity*

In addition to capturing information about the training and employer in the “Provider” module, an activity must also be entered in the employer’s record in the “Employer” module to report this employer engagement on the PIRL. The “Incumbent Worker Training” activity must be selected in the employers record in the “Employer” module. If you cannot find the employer listed, please click on the “Links” selection to download the “New Employer Request Form” or the “Employer Record Update Request Form.” Complete the relevant form and submit, and someone from NJDOL will be in contact.

#### *Funded Service*

Additionally, a funded service “Workplace Training” must be scheduled highlighting training information and details that align with service details entered in the “Provider” module. Specific details about the training must be entered in the “Services” tab in the “Services” module. Some fields pre-populate when entering a new service from the existing offering:

- Service Description (Training)
- Service Type (Workplace Training)
- Provider Name
- O\*Net Title

In addition, the following information needs to be added to the “Services” tab:

- Planned Start Date, Planned End Date, and Actual Start Date
- Program Service Type is Non-ITA Training
- Offering Cost must be entered
- The funding source must be WIOA Dislocated Worker or Adult depending on what funds your local area has set aside for Incumbent Worker Training
- The “Yes” answer must be entered on the Yes/No Incumbent Worker button (This removes the individuals from being enrolled as a Title I participant and from performance measures)

If this training is part of a Rapid Response event, the RR Event # must be entered as well.

Once the service has been entered, check that the IWT-Incumbent Worker Training (Standalone) and WIOA Reportable dates have populated in Pgms/PA (and that Adult and Dislocated Worker dates have not populated).

Finally, additional details about the training, including training focus, any additional parties involved in the training, and expected dates of the training must be entered as a Comment in the “Services” tab.

### **Outcomes Data Entry**

Although IWT participants are not included in performance measures, training and employment outcomes must be collected and entered to ensure that the intended impact of the IWT is in fact achieved.

The “Training Outcomes” tab in the “Services” module must be updated to include:

- Category must be entered as Occupational Skills/Advanced Training
- Tracking training completion
- Measurable Skill Gains – Enter Skills Progression as the Measurable Skill Gain
- Any Credential Attainment Outcomes aligned with the training plan

In addition, the “Employment Outcomes” tab in the “Services” module must be updated to include:

- New Job Titles
- Earnings/Wages post training
- Employment retention – ongoing employment after 6 months

Finally, a comment must be included in the “Comments” tab in the “Services” module summarizing any additional information related to the participant’s experience and satisfaction with the training.

If the participants submitted Social Security Numbers, the Employer Lookup Button may also be used to verify wages.

For more information regarding, AOSOS data entry, please refer to the [AOSOS Technical Guide for Title I Service Delivery](#).

### **References**

- WIOA sec. 3(23); WIOA sec. 134 (d) (4); 20 CFR 680.780; 20 CFR 680.830; 20 CFR 680.840; 20 CFR 680.880
- TEGL 10-16 Change 1 page 43-44 and Attachment 8: [TEGL 10-16-Change1.pdf \(doleta.gov\)](#)
- TEGL 19-16 (pages 15-18): [https://wdr.doleta.gov/directives/attach/TEGL/TEGL\\_19-16.pdf](https://wdr.doleta.gov/directives/attach/TEGL/TEGL_19-16.pdf)
- DOLETA Incumbent Worker Training Desk Reference: [https://ion.workforcegps.org/-/media/Communities/ion/Files/Guidance-on-WIOA/IWT-Desk-Reference-2,-d-,14,-d-,2017.ashx?sc\\_lang=en](https://ion.workforcegps.org/-/media/Communities/ion/Files/Guidance-on-WIOA/IWT-Desk-Reference-2,-d-,14,-d-,2017.ashx?sc_lang=en)

**Contact:** Inquiries regarding this policy should be directed to [WIOAPolicy@dol.nj.gov](mailto:WIOAPolicy@dol.nj.gov).

**Attachment A: Incumbent Worker Training Required Data Elements from TEGL 9-16**

<b>Element #</b>	<b>Element Name</b>	<b>Primary Collection Method</b>
100	Unique Individual Identifier	Local/State
101	State Code of Residence	Local/State
108 – A	ETA-Assigned 1st Local Workforce Board Code	Local/State
403	Occupational Code of Most Recent Employment Prior to Participation (if available)	Employer
404	Industry Code of Employment 1st Quarter Prior to Participation	Employer
900	Date of Program Entry	Local/State
901	Date of Program Exit	Local/State
907	Recipient of Incumbent Worker Training	Local/State
908	Rapid Response (if applicable)	Local/State
1501	Most Recent Date Received Rapid Response Services (if applicable)	Local/State
1600	Employed in 1st Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records; If SSN not provided – employer follow-up
1601	Type of Employment Match 1 <sup>st</sup> Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1602	Employed in 2nd Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1603	Type of Employment Match 2nd Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1604	Employed in 3rd Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1605	Type of Employment Match 3rd Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1606	Employed in 4th Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1607	Type of Employment Match 4th Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1618	Retention with the same employer in the 2nd Quarter and the 4th Quarter (WIOA)	If SSN – UI wage records
1703	Wages 1st Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records

Element #	Element Name	Primary Collection Method
1704	Wages 2nd Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1705	Wages 3rd Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1706	Wages 4th Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1800	Type of Recognized Credential (WIOA)	Employer follow-up
1801	Date Attained Recognized Credential (WIOA)	Employer follow-up
1806	Date of Most Recent Measurable Skill Gains: Educational Achievement (WIOA)	Employer follow-up
1807	Date of Most Recent Measurable Skill Gains: Secondary Transcript/Report Card(WIOA)	Employer follow-up
1808	Date of Most Recent Measurable Skill Gains: Post-Secondary Transcript/ReportCard (WIOA)	Employer follow-up
1809	Date of Most Recent Measurable Skill Gains: Training Milestone (WIOA)	Employer follow-up
1810	Date of Most Recent Measurable Skill Gains: Skills Progression (WIOA)	Employer follow-up
1811	Date Enrolled in Education or Training Program Leading to a Recognized Postsecondary Credential or Employment During the Program (WIOA)	Employer follow-up
1501	Most Recent Date Received Rapid Response Services **Required for IW only if IWT funded with RR funds (WIOA sec. 134(a)(2)(A))	Local/State