

MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY

Policy Number 34

INCUMBENT WORKER TRAINING

Workforce Innovation and Opportunity Act

Office of Grant Management

I. PURPOSE

The purpose of this policy is to communicate employer and worker eligibility for incumbent worker training funded with Workforce Innovation and Opportunity Act (WIOA) funds.

Work-based training and upskilling is designed to ensure that employees can gain the skills necessary to retain employment and advance within the company or to gain the necessary skills to prevent a layoff. Incumbent worker training is responsive to the appropriate requirements of an employer or employees for the function of delivering training to:

- a. Help prevent potential layoffs of employees or
- b. Increase the skill levels of employees for promotional opportunities within the organization and create an abundance of opportunities for other employees.

II. DEFINITIONS

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

b. Layoff Aversion A layoff is averted when an employee's job is saved with an existing employer that is at risk of downsizing or closing; an employee is at risk of dislocation and transitions to a different job with the same employer; or an employee moves to a new job with a different employer and experiences no or minimal time being unemployed.

c. Incumbent Worker is a worker who is:

- i. Employed;
- ii. Meets the Fair Labor Standards ACT (FLSA) requirements for an employer-employee relationship; and
- iii. Has 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).

Exception: There is one exception to the six month requirement, which is that in the event that incumbent worker training is being provided to a cohort of employees, not every employee in the cohort must have an established employment history with the employer for six months or more as long as a majority of those employees being trained meet the employment history requirement.

Incumbent workers do not have to meet WIOA Adult or Dislocated Worker program eligibility unless the individual is enrolled in one of the programs.

State and Local Workforce Development Boards must develop a process for documenting the six month work-history requirement for IWT recipients with the employer. The contract between the Local Workforce Development Board (LWDB) and the employer must include this as a term of the contract.

III. TRAINING/EMPLOYER CRITERIA

Incumbent Worker Training is determined by the Local Workforce Development Area (LWDA) and may consider the following employer criteria:

- a. The components of the incumbent workers to be qualified, specifically the extent to which they represent individuals with barriers to employment as defined in WIOA Section 3 (24) Definitions Section, and how they would benefit from retention or advancement;
- b. The quality of the training (industry-recognized credentials and advancement opportunities);
- c. The number of participants the employer plans to train or retrain;
- d. The employee's advancement opportunities along with wages and benefits;
- e. The wage and benefit levels of participants (before & after training);
- f. The occupation(s) for which incumbent worker training is being provided must be in demand as defined by WIOA Section 3(23)-Definitions Section and as determined by workforce development area-specific labor market information produced by Mississippi Department of Employment Security (MDES);
- g. Credentials and skills are gained as a result of the training;
- h. Layoffs are averted as a result of the training; and/or
- i. Employer Size.

IV. USE OF TRAINING FUNDS

Local Workforce Development Boards can use up to 20 percent of their adult and dislocated worker allocations to provide for the federal share of the cost of providing Incumbent Worker training (see WIOA section 134(d)(4)). Generally, the employer selects and procures the training provider, although LWDBs may help identify training providers, such as those on the Eligible Training Provider List (ETPL). Example: A local area that receives \$1.5 million in Adult funds and \$1.0 million in Dislocated Worker funds may use up to \$500,000 (20% of the total --\$300,000 Adult and \$200,000 Dislocated Worker) for IWT. The portion of adult and dislocated worker funding for IWT can be used for IWT activities that are programmatic in nature.

LWDAs may fund up to 90% of the cost of IWT, which is considered the Federal share of the cost. Employers participating in IWT are required to pay the non-WIOA share of the cost of providing training to their incumbent workers. The employer's 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 may be provided as cash or in-kind that is fairly evaluated) as follows: (WIOA Section 134(d)(4)(D)(ii))

- a. At least 10% of the cost of training for employers with 50 or fewer employees;
- b. At least 25% of the cost of training for employers with 51 to 100 employees; or
- c. At least 50% of the cost of training for employers with over 100 employees.

The non-Federal share provided by an employer participating in the program may include the amount of the wages paid by the employer to an employee while the employee is attending an IWT program. The employer may provide a share in cash or in-kind, fairly evaluated (WIOA Section 134(d)(4)(D)(iii)).

IWT will be provided under guidelines that are applicable to WIOA-funded OTJ training, which will use the repayment percentages provided in this policy. The employer will be reimbursed after IWT is finalized. (Reimbursement will not be made for individuals who do not complete training).

The following factors are taken into consideration when considering employer eligibility:

- a. Number of employees participating in training;
- b. Wage and benefit levels of the employees at the beginning and completion of training;
- c. Relationship in training compared to the competitiveness of employer and employee; and
- d. Availability of other different employer-provided training and advancement opportunities.

As stated in WIOA Section 134(d)(2)(B), IWT funds may also be used to provide supportive services for those participants who are participating in programs mentioned above, but are unable to attain supportive services through other programs providing similar services.

WIOA Title I funds cannot be spent on the wages of incumbent workers during their participation in IWT. However, the employer contribution may pay for wages of incumbent workers, but that would not be considered a “cost of training.”

V. TRAINING

Training can be provided through many different venues: community colleges, vocational-technical centers, state colleges and universities, licensed and certified private entities, industry specific consulting organizations, professional associations, credentialing entities, or the business itself. If in-house training is provided, it must be for training to support new skills that will make the employer more competitive and more likely to avert layoffs per WIOA Section 134(d)(4)(B).

Rapid Response/Layoff Aversion Training:

If an IWT program is funded with rapid response funds, it must be tied to layoff aversion and provide protection from a potential layoff. When IWT is part of a layoff aversion, it must exceed regular training services offered by businesses to their workers.

The purpose of layoff aversion is to save jobs and is intended to maximize an unemployment period for companies that have announced layoffs, or have struggled and are at risk for layoffs. Layoff aversion is a beneficial way to save jobs of employees by putting them back in the workplace, shortening layoff periods, and bringing communities back to life (20 CFR 682.320).

VI. DATA COLLECTION AND PARTICIPANT TRACKING

Incumbent workers being served through an IWT strategy are not required to meet WIOA Adult or Dislocated Worker eligibility requirements, unless they are co-enrolled as a participant in one of these programs. Unless the individual is enrolled in the Adult or Dislocated Worker program, they are not participants for the purpose of inclusion in WIOA performance indicator calculations for state outcomes. However, States and local areas are still required to report certain participant and performance data on all individuals who receive only incumbent worker training.

States and local areas must submit a quarterly report on all individuals they serve, including reportable individuals, participants, exiters, and both coenrolled and non-coenrolled individuals in receiving IWT. The Participant Individual Record Layout, or PIRL, contains over 400 data elements, but not every element is required for individuals in receipt of IWT services only.

The PIRL requires specific data elements be reported for individuals in receipt of IWT. Grantees should refer to the approved PIRL, ETA-9172, for specific definitions as well as instructions in TEGL 10-16, Change 1.

VII. REQUIRED ACTION

Local Workforce Development Boards must adopt a policy that aligns with the state policy. LWDAs will ensure that procedures align with state and local policy.

VIII. EFFECTIVE DATE

This policy shall be effective upon signature. This policy will be revised and reissued as additional DOL/ETA guidance is received.

IX. ATTACHMENT

WIOA Desk Reference: Performance Accountability for Incumbent Worker Training



Robin Stewart
Interim Executive Director
Mississippi Department of Employment Security



Date

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WIOA Desk Reference

Performance Accountability for Incumbent Worker Training

Incumbent Worker Training (IWT) under WIOA provides both workers and employers with the opportunity to build and maintain a quality workforce and is governed by WIOA section 134(d)(4) and 20 CFR 680.780 through .820 of the Final Rule, as discussed in TEGLs 19-16 and TEGL 10-16, Change 1. IWT is designed to meet the needs of an employer or group of employers to retain a skilled workforce or avert layoffs. IWT can be used to either:

- ◆ Help avert potential layoffs of employees, or
- ◆ Increase the skill levels of employees necessary to retain employment, so they can be promoted within the company and create backfill opportunities for less-skilled employees.

States and local workforce development areas (local areas) may use IWT as part of their workforce strategies. States can pay for IWT through their WIOA Governor's Reserve and Rapid Response funds. Local areas can use up to 20 percent of their combined total of Adult and Dislocated Worker formula funds to pay for the federal share of the costs of providing IWT. For more information about IWT, please visit the IWT Desk Reference mentioned in the "Additional Resources" section below.

This reference guide highlights key areas of performance accountability and reporting requirements for all recipients of IWT.

PERFORMANCE REPORTING

Incumbent workers being served through an IWT strategy are not required to meet WIOA Adult or Dislocated Worker eligibility requirements, unless they are co-enrolled as a participant in one of these programs. Unless the individual is enrolled in the Adult or Dislocated Worker program, they are not participants for the purpose of inclusion in WIOA performance indicator calculations for state outcomes. However, States and local areas are still required to report certain participant and performance data on all individuals who receive only incumbent worker training.

States and local areas must submit a quarterly report on all individuals they serve, including reportable individuals, participants, exiters, and both coenrolled and non-coenrolled individuals in receiving IWT. The Participant Individual Record Layout, or PIRL, contains over 400 data elements, but not every element is required for individuals in receipt of IWT services only.

The PIRL requires specific data elements be reported for individuals in receipt of IWT.¹ The descriptions in this guide are a summary of PIRL definitions. Grantees should refer to the approved PIRL, ETA-9172, for specific definitions as well as instructions in TEGL 10-16, Change 1.

- ◆ **Recipient of Incumbent Worker Training (907)** – All recipients of IWT must be reported in the PIRL under element number 907, regardless of whether they become a participant in one of the other WIOA programs. For individuals who only receive IWT, and therefore are not participants in

¹ In the ETA-9172 these requirements are designated by the elements marked with an "R" in the column labeled "Incumbent Worker (Adult/DW Funded)." The ETA-9172 can be found on the ETA reporting page <https://doleta.gov/performance/reporting/> or at https://doleta.gov/performance/pfdocs/ETA_9172_DOL_PIRL_1.18.81.pdf



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the Adult or Dislocated Worker programs, states must still report a "Date of Program Entry" in element 900, and should report a "0" in elements 903 "Adult" and 904 "Dislocated Worker."

- ♦ **Adult (903), Dislocated Worker (904)** – In cases where an individual is also receiving services through the Adult or Dislocated Worker programs, States and local areas must include such participants in the applicable program of co-enrollment (in addition to element PIRL data 907).
- ♦ **Rapid Response (908), Most Recent Date Received Rapid Response Services (150)** – For individuals who receive IWT that is funded with Statewide Rapid Response funds, States (and local areas as appropriate) must report on these individuals through these two data elements.

WORKFORCE INTEGRATED PERFORMANCE SYSTEM (WIPS)

To submit the required performance reports, grantees utilize the WIPS and submit the records of individuals in receipt of IWT as part of their Adult/Dislocated Worker file submission in the full PIRL or SIRS file format. For WIPS technical support, contact: WIOA.Feedback@dol.gov. For more information on WIPS resources, please refer to the WIPS resource page at: <https://doleta.gov/performance/wips/>, which contains the program schemas for the full PIRL and the SIRS file format.

PERFORMANCE INDICATORS

Individuals who only receive IWT and do not become core program participants will not be included in the calculation of the State primary indicators of performance for negotiations and accountability purposes. However, States and local areas **are** required to collect and report the outcomes of non-coenrolled individuals in receipt of IWT in order to calculate the primary indicators of performance for incumbent worker training projects separately from state performance:

Measure	Relevant PIRL Elements
1. Employment Rate <i>Second Quarter After Exit</i>	1602, 1603
2. Employment Rate <i>Fourth Quarter After Exit</i>	1606, 1607
3. Median Earnings <i>Second Quarter After Exit</i>	1704
4. Credential Attainment	1800, 1801
5. Measurable Skill Gains	1800, 1801, 1806, 1807, 1808, 1809, 1810, 1811, 1813 ²

² PIRL Element 1813 was added as part of revisions found in the amended Joint WIOA ICR, for tools and resources describing the details of the amendment, see <https://performancereporting.workforceegps.org/resources/2018/07/23/13/30/Amended-ICR-Implementation-Resources>.



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PROGRAM EXIT

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, and determine exit based on that program's qualifying services reported during the period of participation.

Additional Resources

- ♦ ETA-9172, *Participant Individual Record Layout (PIRL)*, https://doleta.gov/performance/pfdocs/ETA_9172_DOL_PIRL_1.18.18.pdf
- ♦ TEGL 10-16, Change 1, *Performance Accountability Guidance for Workforce Innovation and Opportunity Act (WIOA) Title I, Title II, Title III, and Title IV Core Programs*, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3255
- ♦ TEGL 19-16, *Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules*, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3851
- ♦ ETA's performance website: <https://www.doleta.gov/performance/reporting/>.
- ♦ ETA's WorkforceGPS website includes performance reporting information, technical assistance, and e-learning modules: <https://performancereporting.workforcegps.org/>.
- ♦ Adult and Dislocated Worker Key Resources – Work-Based- Learning website, [https://ion.workforcegps.org/resources/2017/03/09/12/20/Work-Based_Learning - Adult and Dislocated Worker Programs](https://ion.workforcegps.org/resources/2017/03/09/12/20/Work-Based_Learning_-_Adult_and_Dislocated_Worker_Programs)
- ♦ Incumbent Worker Training – WIOA Desk Reference, [https://ion.workforcegps.org/resources/2017/03/19/19/18/Incumbent Worker Training - WIOA Desk Reference](https://ion.workforcegps.org/resources/2017/03/19/19/18/Incumbent_Worker_Training_-_WIOA_Desk_Reference)
- ♦ WIPS Log In - <https://dol.appiancloud.com/suite/>
- ♦ WIPS Resource Page and PIRL Schemas - <https://www.doleta.gov/performance/wips/>

WIOA Implementation Technical Assistance

The Innovation and Opportunity Network (ION) is a community of practitioners, program staff, partners, planners, industry leaders, and stakeholders that strive for system improvement, capacity building, and excellence in the public workforce system. ION is a national, regional, state, and local alliance that makes available the technical assistance, information sharing, and training needed to implement the vision of WIOA. Visit ION at: <https://ion.workforcegps.org>



EMPLOYMENT AND TRAINING ADMINISTRATION
UNITED STATES DEPARTMENT OF LABOR

WIOA Desk Reference

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