

**Incumbent Worker Training Policy  
and Procedures for the  
Northeast Ohio Consortium Council of Governments  
Workforce Innovation and Opportunity Act Policy A-07**

**I. Purpose and General Outline.**

The purpose of this policy is to provide guidance on the requirements for incumbent worker training.

During an initial open application period during the program year, the Workforce Development Board will receive applications from employers located within Geauga, Ashtabula, and Portage Counties, who wish to receive monetary assistance in training their incumbent workers. Applications submitted during the initial open application period will be considered and competitively scored against one another. Thereafter, all applications will be scored individually, on a first-come, first-reviewed basis.

The Area Workforce will approve or deny applications based upon the strength of each application on its own right, as well as comparatively against others submitted at the same time. The approval or denial of an application will be determined by the factors set forth within this policy, and the amount of resources budgeted by the Area workforce to provide for the same.

The Area's IWT program is not an entitlement program. The funding of each IWT application will be made on a case-by-case basis, considering the totality of all of the variables associated with the employer, the employees to be trained, the training, etc.

**II. Effective Date.**

October 1, 2018.

**III. Definitions.**

Incumbent worker: a worker employed with the company for at least six (6) months when the incumbent worker training starts.

Incumbent worker training: training designed to meet the special requirements of an employer, or a group of employers, by assisting their workers in obtaining the skills necessary to maintain or retain employment, or have the opportunity for increased earnings potential through promotion, with the training accomplishing one or both of the following two goals:

- A. Retain a skilled workforce; or
- B. Avert the need to lay off employees.

Layoff aversion: a continuum of strategies targeted to specific employers or industries that are experiencing a decline and have the potential to undergo layoffs, or are experiencing a serious skills gap that impacts their ability to compete and retain workers. A layoff is considered to be averted when:

- A. A worker's job is saved at an existing employer facing a risk of downsizing or closing; or
- B. A worker at risk of dislocation faces a brief gap of unemployment when transitioning to a different job with the same employer or is hired at a new job with a different employer.

Planning Region: two or more local workforce development areas assigned by the State to align workforce development activities and resources with larger regional economic development areas and available resources to provide coordinated and efficient services to both job seekers and employers.

Retain a Skilled Workforce: a continuum of strategies to be developed with a business or business association that assists those employers and businesses within the same to maintain their competitive status, incorporate new technology, or prevent downsizing.

#### **IV. Application Process.**

All employers seeking IWT assistance must submit a completed copy of the Area 19's application for employer training assistance. See the attached, which is to be used by employers who are seeking IWT, OJT, or CT assistance. Each application will experience a pre-award review which will be conducted by 3-5 individuals, described as follows:

- Director for the Area WDB, or his/her representative.
- A Commissioner from the Sub-Area where the employer is located. Should a Commissioner elect to not serve, either the Director or the Commissioner may name a proxy.
- A representative from the entity providing Business Resource Network County Account Executive Services.
- The Director of the CDJFS of the Sub-Area where the employer is located or his/her proxy.
- A representative of the sub-area's adult and dislocated worker provider.

The findings of the pre-award review process will be reduced to writing through the production and completion of a checklist or other written report.

The Area Workforce Development Board will take applications for Incumbent Worker Training during an announced initial period, set by the Executive Director in consultation with the contractor for the Adult and Dislocated Worker contract setting the time periods during the year in which IWT applications will be open or closed for consideration within the Area or within each Sub-Area, to be scored competitively against one another on a

county-by-county basis. All applications will be scored either competitively or individually as applications are submitted, first-come, first reviewed.

The Area Workforce has sole discretion to accept or reject any and all applications, based upon the criteria set forth within this policy, and/or any other relevant criteria it deems appropriate. The Area may cease taking applications for one or more counties, when its budgeted resources for IWT have been exhausted.

## **V. Terms and Conditions of Incumbent Worker Training.**

### **A. Types of Training Available.**

There are three (3) general types of training that are available. For any of the three types of training to be applicable they must:

- increase the company's competitiveness;
- make the employee more employable, by making s/he more qualified in their line of business and/or by providing them with skills for new products or processes; and
- provide the participant with credentials or industry recognizable skills that promote the worker's career and increases their overall employability.

The three (3) types of training are as follows:

1. **Skills upgrading and retraining.** Short-term training that enhances occupation-specific skills or basic skills that lead to a credential/certificate. **See the remainder of this Policy.**
2. **Customized training.** Customized training is conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of training. **See Area Policy A-11,** and Workforce Innovation and Opportunity Act Policy Letter ("WIOAPL") No. 15-24, Customized Training Guidelines.
3. **Occupational skill training through the provision of Individual Training Accounts with those on the state of Ohio's eligible training provider list.** Training that leads to an industry recognized credential or a certificate. **See Area Policy C-11,** and Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-11, Use of Individual Training Accounts.

### **B. Requirements to Procure or Not Procure Training.**

The Area and its Sub-Areas have several options to determine how best to provide the training needed by a business as described below:

1. Area 19 may enter into contracts, and/or ITA(s) with eligible training providers (ETP) without any additional procurement requirements. Utilization of the state of Ohio's ETP list is for universally applicable off-the-shelf employer training and is not intended to include unique, specialized, or employer-specific training.
2. A business may be considered a "beneficiary" of this federal program and receive incumbent worker training assistance on a reimbursement basis. WIOA sub-recipients and vendors are not considered to be beneficiaries. In order for a business to utilize the beneficiary option, the following guidelines must be adhered to:
  - a) Business beneficiaries may receive reimbursement for their actual training costs incurred under this program, on a reimbursement basis, as outlined in this policy.
  - b) Area approval of a training plan is required before reimbursement may be provided to a beneficiary. The development of training plans is the joint responsibility of the Area 19 WDB director and the business.
  - c) Training providers are not required to be listed on the state's eligible training provider list for the purpose of providing training under paragraph 2 of this section. The Area may assist business beneficiaries in identifying potential providers of training; however, the selection of a training provider is not subject to state or federal procurement requirements.
  - d) The training plan must identify all of the following:
    - 1) The provider(s) of training;
    - 2) Type of training;
    - 3) Planned start and end dates;
    - 4) Number of individuals to be trained;
    - 5) The projected cost of training; and
    - 6) Any other information required by the Area 19 WDB.
3. For businesses not following the guidelines in paragraph 2 of this section and have training needs that cannot be provided by Ohio's eligible training providers, Area 19 WDB will follow proper procurement procedures as identified in rules 5101:9-4-07 and 5101:9-4-07.1 of the Ohio Administrative Code, or local procurement policies if more restrictive.

### **C. Training Provider Considerations.**

While employers may suggest a trainer or educational institution, the Area, through the contracted for Adult and Dislocated Worker Provider for the Sub-Area that is providing the training, has final say on which trainer/educational institution will be

used. In making a determination of whether a trainer/educational institution is acceptable or not, the following criteria will be considered:

- satisfactory past performance,
- accreditation,
- curricula that lead to credentials,
- relevant training experience, accredited instructors,
- proven high job placement rates,
- proven high training completion rates,
- a proposed training environment that supports learning and is within reasonable proximity to the trainees, so the cost and time required for travel is minimized.

**D. Allowable and Unallowable Costs Associated with Incumbent Worker Training Program.**

1. Allowable costs.

Allowable costs may include only costs directly related to training. Allowable costs may include:

- a) Cost of tuition if using an educational provider, which includes expense of instructor/trainer.
- b) Instructor/trainer salaries if not otherwise covered by tuition.
- c) Curriculum development.
- d) Materials and consumables including textbooks, manuals, training software.
- e) Other necessary and reasonable costs directly related to training.
- f) Cost to train management employees in management skills for skills upgrading such as Six Sigma and LEAN.

2. Unallowable costs.

Unallowable costs include:

- a) Foreign travel.
- b) Purchase or lease of capital equipment.
- c) Encouragement or inducement of a business or part of a business to relocate from any location in the United States.
- d) Use of IWT funds to pay for a worker's training wages.
- e) Use of IWT funds for LEAN/Sigma Six training where it is for the purpose of layoff aversion as opposed to skills upgrading.
- f) Normal employer payroll.
- g) Employment-generating activities.
- h) Economic development activities.
- i) Investment in revolving loan funds.

- j) Investment in contract bidding resource centers.
- k) Capitalization of business.
- l) Payment of training costs or wages for a worker before their training period has commenced or after their training period has ended.

**E. Employer’s Share of Training Costs.**

The Incumbent Worker Training program for the Area is not an entitlement program. Furthermore, it is a program requiring the provision of a contributing investment of an employer.

Before benefits will be provided, an employer must submit an application and it must be reviewed and approved. It is the right of the Area, through its designated provider for each Sub-Area or county to accept or deny any application. Furthermore, it is also the right of the Area through its designated providers to determine how much it will contribute in addition to the employer’s contributing investment. The following scale will be used by the Area in determining what share of the total cost of training it will provide.

<u>Employer Size</u>	<u>Sub-Area’s % Share</u>	<u>Employer’s % Share</u>
50 employees or less	10% to 90%	10% to 90%
51 to 100 employees	10% to 75%	25% to 90%
101 or more employees	10% to 50%	50% to 90%

Employers are required to pay for a significant cost of the training for those individuals in incumbent worker training. This can be done through cash payments, advancement for training for which they are not reimbursed, and/or through in-kind contributions which may include wages paid to individuals while being trained.

**F. Employer Eligibility.**

For an employer to be eligible it must establish that it meets both the following basic and enhanced eligibility criteria.

1. Basic Eligibility Criteria. Federal and State Requirements.

The following is the minimum eligibility criteria that must be demonstrated to satisfy federal and state eligibility requirements. The criteria will be established by the employer’s complete and accurate submission of an application.

- a) Must not be presently debarred, suspended, proposed for disbarment, and declared ineligible or voluntarily excluded from participation in transactions by USDOL or the state of Ohio.
  - Federal Exclusion and Debarment Site: <http://www.sam.gov>
  - Ohio Department of Taxation: <http://www.tax.ohio.gov>
  - Business Filing Search: <http://www.sos.state.oh.us>
- b) Shall not have any outstanding tax liability to the state of Ohio for over six months and will disclose any known outstanding tax liabilities with other states prior to entering into contract.
- c) Must not be identified as having more than (1) unfair labor practice contempt of court finding on the most recent list established by the Ohio Secretary of State.
- d) Must have all of the approvals, licenses, or other qualifications needed to conduct business in the state of Ohio and all must be current. Training under the IWT program will cease if the business is disqualified from conducting business in Ohio during the course of the training.
- e) Shall not be a governmental entity, including the city, county and state, may not participate in the local IWT program. Health care providers that are operating as not-for-profit entities are the only allowable exceptions to this prohibition.
- f) Must not have been in operation in the state of Ohio for less than 120 days if the business had laid off workers at a former location in the United States. To verify that a business is not relocating employment from another area, a pre-award review must include the names under which the establishment conducts business, including predecessors and successors in interest; the name, title, and address of the company official certifying the information, and whether WIOA assistance is being sought in connection with past or impending job losses at other facilities of their company. The pre-award review should also include a review of whether appropriate notices have been filed, as required by the Worker Adjustment Retraining Notification (WARN) Act. The review may also include consultations with labor organizations and others in the affected local area(s).
- g) Must not have any outstanding civil, criminal or administrative fines or penalties owed to or pending in the state of Ohio.
- h) Must meet all other qualifications set forth within the Area 19's application for employer training assistance.

2. **Enhanced Eligibility Criteria. Area/Regional Requirements.**

The Area Workforce per this policy has the sole discretion to determine which IWT applications will be offered assistance, and which applications will be denied. A significant part of the determination will be based upon the amount of assistance sought by the employer compared to the amount that has been and remains within the Area's/Sub-Area's budget for IWT.

All of the following factors will be taken into consideration in making a determination on the application.

- a) The employer's meeting/interview with the sub-area's Business Resource Network County Account Manager prior to or as part of the consideration of the application. An interview done within twelve (12) months prior to the submission of the application will qualify.
- b) Will the training of employees result in the expansion of the employer's workforce, and if so compared to how many trained?
- c) The wages of those who are trained prior to training, and within thirty (30) days following training.
- d) Other information solicited within the application and provided in response.
- e) Where there are federal, state, or local funds available for employer to be compensated for skills upgrading training (not layoff aversion) for which employer might be eligible, that employer applying for the same first a condition precedent to being eligible to receive an Area 19 Incumbent Worker Training Grant.

**G. Employee Eligibility.**

The incumbent worker in order to participate in the subsidized training must meet each of the following minimum federal, state, and local requirements.

1. Employed by the employer doing the training.
2. The employee meets the Fair Labor Standards Act requirements/definition for an employer-employee relationship.
3. Have established employment history with the employer for six months or more. 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 meet the employment history requirement, the training is allowable.
4. Completed selective service registration (for males 18 and over born after January 1, 1960).



5. Individual has citizenship status.
6. Individual is age 18 or older.

**H. Area Terms and Conditions Regarding Use of WIOA Funds for IWT.**

Each Sub-Area or County's Adult and Dislocated Worker providers when administering this policy shall not expend more than has been provided for within each of the following budgets:

1. the budget approved by the Area 19 WDB;
2. the budget approved by the NOC COG as part of its provider agreement;
3. twenty percent (20%) of the total of the Adult and Dislocated Worker grant allocations available to the sub-area to expend.

**I. Area/Region Terms and Conditions Regarding Contract and Payment.**

1. Requirement of a Written Agreement.

If an employer's application for the provision of assistance in providing Incumbent Worker Training is initially approved, the Sub-Area and Area's review team will contact the employer to negotiate the remaining terms and conditions associated with the provision of assistance. The parties to the Agreement will be at a minimum, the Sub-Area and Area, and the employer. The training provider will be included as a party to the Agreement where applicable. If the training provider is not included as a party to the Agreement, the employer must have entered into a written agreement with the Provider. The Area/Sub-Area are not committed to the provision of reimbursement for training until they enter into a written agreement regarding the same.

2. Terms of the Payment/Repayment.

The employer shall be solely responsible for paying the trainer and/or educational institution pursuant to terms and conditions agreed upon regarding the same. The Area/Sub-Area shall be responsible for compensating the employer for an agreed upon share of actual expenses, the categories and total amount of which are pre-approved, and which are actually incurred by the employer, after the completion of the training and following the employer submission of at a minimum all of the following:

- a) a copy of the invoice,
- b) a copy of all supporting documentation provided to the employer by the educational provider,
- c) a copy of each of the certificates of training earned by each participant, and

- d) the employer's proof of payment showing the amount it paid the trainer/educational provide.

Upon receipt of each or all invoice(s) provided by the employer, the Sub-Area/Area shall reimburse the employer within thirty (30) days from the occurrence of each of the following events:

<u>Event</u>	<u>Amount to Be Paid</u>
Submission of all invoices after completion of training	50% to 100% of the Sub-Area's agreed upon share
Submission of any other documentation made as a condition of awarding the IWT assistance as set forth within the Agreement.	Remaining percentage, if any.

In all circumstances, the Area and Sub-Area's total amount of reimbursement shall be capped at whatever maximum amount it agreed upon within the written agreement, and/or its total maximum agreed upon share of total allowable IWT expenses as provided for applying the Area/Sub-Area's percentage share of expenses, to the total amount of allowable expenses, the categories of which the Area/Sub-Area agreed to pay . When those two amounts are different, the Area/Sub-Area shall pay the lesser of those two amounts.

**J. Coordination with Apprenticeships.**

On a case-by-case basis, the Area/Sub-Area may allow the use of an IWT for an individual enrolled in a registered apprenticeship program when there are no other funds available that would provide funding assistance for the apprenticeship. Additional federal funding for registered apprenticeship programs is available through several federal agencies to support business investments in apprentices and to assist educators and intermediaries in strengthening the tie between training and employment through registered apprenticeship. Sub-Areas will check the Department of Labor's Training and Employment Guidance Letter No. 13-16 for websites for several registered apprenticeship funding resources and check those resources before providing for funding for an apprenticeship.

**VI. Systems Reporting.**

**A. Fiscal Reporting.**

Any and all funds used to pay for IWT programming will be reported as program costs. The fiscal agent for the Sub-Area and Area must track funds used for incumbent worker training by funding stream and by the year of appropriation. These fiscal agents will report incumbent worker expenditures using the incumbent worker code established by the Office of Fiscal and Monitoring Services. Coding

exists for both the adult and dislocated worker programs. The accrued expenditures charged to the incumbent worker code for the adult and dislocated worker programs must not exceed twenty percent (20%) of those two grants. The Area and ODJFS will monitor costs reported against the incumbent worker training program.

## **B. Program Reporting.**

The Sub-Area provider is required to report IWT activities via the Mini Incumbent Worker registration in the Ohio Workforce Case Management System (OWCMS). IWT programs will be reported in OWCMS with at least the minimal amount of data required. If the Sub-Area wishes to co-enroll an IWT participant in the local adult or dislocated worker program, a full registration is required in OWCMS which includes all of the data elements needed for WIOA participants, including performance data. Co-enrolled participants must meet all eligibility requirements for adult, dislocated worker, and youth programs.

## **VIII. Technical Assistance.**

To get questions answered and technical assistance regarding this policy or issues regarding administration of WIOA, you are urged to contact the Executive Director of the Area 19 WDB NOC COG at [craigsernik@neohio.twcbc.com](mailto:craigsernik@neohio.twcbc.com).

The question/issue will be researched, analyzed, and a formal written response will be provided. If a second opinion is required, the director is not available, or there is no clear answer to the question/issue, either the Executive Director or any OMJ Center or provider staff may seek additional guidance by submitting the same to the Office of Workforce Development: [WIAQNA@jfs.ohio.gov](mailto:WIAQNA@jfs.ohio.gov); and by copying your request to the Executive Director of the Area 19 WDB NOC COG.

## **IX. Monitoring**

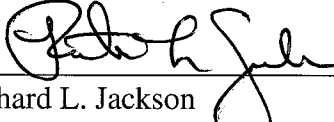
The Area will conduct oversight and monitoring of the implementation of all WIOA programming by all OhioMeansJobs Center Operators, Partners, and/or Providers pursuant to Area Workforce Policy D-03. Any issues discovered will be handled through the area's monitoring resolution process.

## **X. References**


- Workforce Innovation and Opportunity Act, § 134(d)(4), Public Law 113-128.
- NPRM § 680.530 found at 80 Fed. Reg. 20859 (April 16, 2015) (to be codified at 20 C.F.R. § 680.530).
- NPRM § 680.780 found at 80 Fed. Reg. 20861 (April 16, 2015) (to be codified at 20 C.F.R. § 680.780).
- NPRM § 680.790 found at 80 Fed. Reg. 20862 (April 16, 2015) (to be codified at 20 C.F.R. § 680.790).

- NPRM § 680.800 found at 80 Fed. Reg. 20862 (April 16, 2015) (to be codified at 20 C.F.R. § 680.800).
  - NPRM § 680.810 found at 80 Fed. Reg. 20862 (April 16, 2015) (to be codified at 20 C.F.R. § 680.810).
  - NPRM § 680.820 found at 80 Fed. Reg. 20862 (April 16, 2015) (to be codified at 20 C.F.R. § 680.820).
  - 2 CFR Part 200, Appendix II
  - O.A.C. 5101:9-4-07, Procurement and contract requirements. (July 6, 2015).
  - O.A.C. 5101:9-4-07.1, Procurement methods. (July 6, 2015).
  - ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-11, Use of ITAs (July 1, 2015).
  - ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-24, Customized Training Guidelines (March 23, 2016).
- Rescission:**
- **Workforce Investment Act Policy Letter No. 09-09.5**, Layoff Aversion Incumbent Worker Training (IWT) with Local Formula Funds under Waiver Authority (May 14, 2014).

**XI. Signatures.**

  
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 Richard L. Jackson  
 Area WDB Chairperson

Date 9/21/20

  
 \_\_\_\_\_  
 Casey R. Kozlowski  
 Ashtabula County Commissioner  
 Northeast Ohio Consortium Council of Governments,  
 Chief Elected Official

Date 9/18/20

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