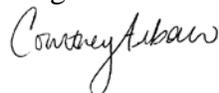


TEXAS WORKFORCE COMMISSION
Workforce Development Letter

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Date:	May 1, 2019
Keyword	WIOA
Effective:	June 1, 2019

To: Local Workforce Development Board Executive Directors
Commission Executive Offices
Integrated Service Area Managers



From: Courtney Arbour, Director, Workforce Development Division

Subject: **Incumbent Worker Training**

PURPOSE:

The purpose of this WD Letter is to provide Local Workforce Development Boards (Boards) with guidance on providing and tracking incumbent worker training using Workforce Innovation and Opportunity Act (WIOA) Adult and Dislocated Worker funds.

BACKGROUND:

Federal requirements for incumbent worker training are set forth in WIOA §134(d)(4) and 20 Code of Federal Regulations (CFR) §§680.780–680.820. Incumbent worker training serves to increase the competitiveness of the employee or employer and is designed to meet the specific requirements of an employer or 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.

PROCEDURES:

No Local Flexibility (NLF): This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

Local Flexibility (LF): This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”

Employer Eligibility

NLF: Boards must be aware that eligibility for incumbent worker training is determined at the employer level by the Board, which determines whether the employer or group of employers is eligible to receive incumbent worker training services.

NLF: Boards must be aware that to be eligible for incumbent worker training services, the employer must have a Texas Workforce Commission (TWC) Tax Account Number with a status of active and liable and must have an employer account in WorkInTexas.com with the same TWC Tax Account Number.

NLF: Boards must consider the following when determining employer eligibility to receive WIOA funds for incumbent worker training:

- The characteristics of the individuals in the program
- The ability of the training to increase the competitiveness of an employee and an employer
- Other factors that the Board determines appropriate, including:
 - the number of employees trained;
 - wages and benefits, including post-training wage increases; and
 - the existence of other training and advancement opportunities provided by the employer.

NLF: Boards must ensure that employers make a commitment to retain or avert the layoffs of incumbent worker trainees.

NLF: As required by 20 CFR §679.560(b)(3)(v), Boards must ensure that their Board Plan describes the process used to develop and complete incumbent worker training contracts with employers.

Non-Federal (Employer-Paid) Share of Cost

NLF: As WIOA §134(d)(4)(D) states, Boards must be aware that employers participating in incumbent worker training are required to pay the non-Federal share of the cost of providing training to their incumbent workers. The amount of the non-Federal share is determined by the Board, which must take the following factors into consideration:

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

NLF: Boards must be aware that the non-Federal share shall not be less than:

- 10 percent of the cost, for employers with 50 or fewer employees;
- 25 percent of the cost, for employers with 51–100 employees; and
- 50 percent of the cost, for employers with more than 100 employees.

NLF: Boards must be aware of the following:

- The non-Federal share provided by an employer may include the amount of the wages paid by the employer to a worker while the worker is attending incumbent worker training.
- The employer may provide the share in cash or in-kind, based on a fair evaluation of the value of the in-kind contribution.
- Boards must evaluate the fairness of the in-kind valuation using the standards in OMB Uniform Guidance, the state's Uniform Grant Management Standards, and TWC's Financial Manual for Grants and Contracts.

Incumbent Worker Eligibility

NLF: Boards must be aware that an individual does not have to meet the eligibility requirements for WIOA career and training services to receive training from his or her employer through incumbent worker training. If an incumbent worker meets eligibility requirements for WIOA career and training services, that worker may be enrolled as a WIOA participant to receive other services from the WIOA adult program, in which case, the individual's participation would be reported under the appropriate WIOA indicators of performance. However, enrollment in the WIOA adult program is not required for participation in incumbent worker training.

NLF: Under 20 CFR §680.780, Boards must establish policies and definitions to determine which workers, or groups of workers, are eligible for incumbent worker training services. To qualify as an incumbent worker, the incumbent worker 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 six months or more; however, exceptions apply when training is provided to two or more employees in the same cohort. (See next paragraph.)

NLF: Boards must be aware that:

- if the incumbent worker training is being provided to a cohort of employees, at least 50 percent of the employees being trained must have an established employment history with the employer for six months or more; and
- using WIOA funds to provide incumbent worker training to cohorts who do not meet the federally established employment history threshold may result in a disallowed cost to the Board.

LF: Boards may set a cohort employment history threshold at higher than 50 percent to ensure that the federal standard is met, which must be documented in the agreement with the employer.

Allocation

NLF: Boards must not use more than 20 percent of their total WIOA adult and dislocated worker formula allocation to provide incumbent worker training.

NLF: Boards must:

- ensure that the incumbent worker training cost per participant is reasonable and necessary to complete the course of study; and
- identify and document the methodology and factors used in making that determination.

Data Tracking

NLF: Boards must use the Incumbent Worker Training Tracking Tool (Attachment 1) to document incumbent worker training for individual incumbent workers and cohorts, the cost of training, and training outcomes.

NLF: Boards planning to provide incumbent worker training services must coordinate such activities with their assigned Board grant manager, as follows:

- Prior to beginning the incumbent worker training, Boards must complete the Notification Form for Incumbent Worker Training (Attachment 2) and submit the completed form to their assigned grant manager following the instructions on the form.
- The assigned grant manager must assign a unique Cohort ID Number to each incumbent worker training, whether the training is provided to one employee or to a cohort of employees.
- The assigned grant manager will send the Incumbent Worker Training Tracking Tool to the Board with the assigned Cohort ID Number. (One tracking tool with one unique Cohort ID Number will be assigned to each incumbent worker training session.)
- The Cohort ID Number assigned to the tracking tool is a 10-digit number consisting of three parts, as follows:
 - Two-digit Board number
 - Two-digit calendar year in which training begins
 - Unique training session ID beginning with “IWT” and followed by a three-digit number assigned to each unique incumbent worker training
- Each unique training session increases the Cohort ID Number consecutively based on the number of incumbent worker training sessions that the Board funds.
 - Cohort ID Numbers will continue to increase consecutively within a calendar year, because the numbers are based solely on the number of training sessions that the Board funds and are not tied to the number or variety of employers or training providers facilitating incumbent worker training.
 - Unique training session IDs, the third part of the Cohort ID Number, will reset to begin with “IWT001” at the beginning of each new calendar year.
 - For example, a Cohort ID Number of 14-19-IWT001 indicates that the Capital Area Workforce Development Board is funding the training, the training begins in 2019, and this is the first cohort of incumbent worker training being funded in 2019. Similarly, a Cohort ID Number of 14-19-IWT002 indicates that it is the

second cohort of incumbent worker training being funded by the Capital Area Workforce Development Board in 2019.

NLF: Boards must encourage the collection of Social Security numbers as part of the training agreement so that incumbent worker wage records can be used to verify employment or training outcomes.

NLF: Following established contract submission deadlines, Boards must submit an updated Incumbent Worker Training Tracking Tool to their assigned grant manager at the end of each quarter and must continue submitting it each quarter thereafter until the final credential outcome has been attained and documented in the tool. The completed tracking tool must be submitted within 20 days of the end of each reporting quarter.

NLF: Boards must ensure that Workforce Solutions Office staff enters the incumbent worker training service in WorkInTexas.com for the employer.

Protection of Personally Identifiable Information

NLF: Boards must ensure that the agreement with the employer and the training provider for incumbent worker training includes provisions to ensure the security of personally identifiable information and other sensitive information that is required for successful tracking of training services and outcomes. All Boards and workforce partners must maintain such information in accordance with TWC's standards and security measures as documented in the following:

- WD Letter 13-08, issued April 1, 2008, and entitled, "Security of Personal Identity Data"
- WD Letter 02-18, issued March 23, 2018, and entitled, "Handling and Protection of Personally Identifiable Information and Other Sensitive Information"

INQUIRIES:

Send inquiries regarding this WD Letter to wfpolicy.clarifications@twc.state.tx.us.

ATTACHMENTS:

Attachment 1: Incumbent Worker Training Tracking Tool

Attachment 2: Notification Form for Incumbent Worker Training

REFERENCES:

WIOA §134—Use of Funds for Employment and Training Activities

WIOA Regulations at 20 CFR §§680.780–680.820

US Department of Labor Employment and Training Administration, Training and Employment Guidance Letter No. 19-16, issued March 1, 2017, and entitled, "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"

WD Letter 13-08, issued April 1, 2008, and entitled, "Security of Personal Identity Data"

WD Letter 02-18, issued March 23, 2018, and entitled, “Handling and Protection of Personally Identifiable Information and Other Sensitive Information”

WD Letter 17-18, issued August 16, 2018, and entitled, “Workforce Automated Systems Data Entry Deadlines for Board Contract Year 2019”