



**COUNTY OF SAN LUIS OBISPO**  
**DEPARTMENT OF SOCIAL SERVICES**  
**WORKFORCE DEVELOPMENT BOARD**

3433 South Higuera Street, P.O. Box 8119, San Luis Obispo, CA 93403-8119  
(P) 1-805-781-1908

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**POLICY NO:** 14-19  
**TO:** Service Providers  
**FROM:** Department of Social Services  
**EFFECTIVE:** January 01, 2020  
**SUBJECT:** Incumbent Worker Training (IWT) Policy

**REFERENCES:**

- Workforce Innovation and Opportunity Act (WIOA) Sections: 122(h)(i), 134(d)(4), 134(G)(ii), 134(c)(3)(H), and 194(4)
- Workforce Services Directive (WSD) 19-01 Incumbent Worker Training
- Workforce Services Directive (WSD) 18-10 WIOA Training Expenditure Requirement
- Workforce Services Directive (WSD) 18-03 Pathway to Services, Referral, and Enrollment
- Workforce Services Directive (WSD) 17-08 Procurement of Equipment and Related Services
- Workforce Services Directive (WSD) 16-18 Selective Service Registration
- Workforce Services Directive (WSD) 16-16 Allowable Costs and Prior Written Approval
- Workforce Services Directive (WSD) 16-15 Dislocated Worker Additional Assistance Projects
- Workforce Services Directive (WSD) 16-13 Monthly and Quarterly Financial Reporting Requirements
- Workforce Services Directive (WSD) 16-04 Rapid Response and Layoff Aversion Activities
- Workforce Services Directive (WSD) 15-23 Transfer of Funds – WIOA Adult/Dislocated Worker Program
- Title 20 Code of Federal Regulations Sections 680.780 - 680.820
- Training and Employment Guidance Letter (TEGL): 19-16 Guidance on Services provided through the Adult and Dislocated Worker programs under the WIOA and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules
- Training and Employment Guidance Letter (TEGL): 10-16 Change 1, Subject: Performance Accountability Guidance for Workforce Innovation and Opportunity Act (WIOA) Title I, Title II, Title III and Title IV Core Programs
- Workforce Services Information Notice (WSIN)12-31 Assisting Employers in the New CalJOBS

**DEFINITIONS:**

**Business and Employer:** A private sector, local government, for profit or not-for profit place of business. Business and Employer are used interchangeably in this policy.

**California Employer Account Number:** An eight-digit payroll tax number issued to a registered employer by the Employment Development Department, also known as the Employer Payroll Tax Account Number, State Employer Identification Number, or state ID.

**Employer Share:** Employers are required to pay for a significant cost of the training for those individuals in IWT. The minimum amount of employer share in IWT depends on the size of the employer.

**Follow-up:** Shall be performed six months after reported completion of IWT to determine outcomes (retained employment, advancement, and increased wages).

**Incumbent Worker:** To qualify as an Incumbent Worker, the employee must meet the following:

- Be a current employee of an eligible employer and have an established employment history with the employer for six months or more. An individual is not held to the six-month employment requirement if the IWT is being provided to a cohort of employees. In this instance, not every employee must meet the employment history requirement if a majority of the employees being trained do meet the requirement.
- Meet the Fair Labor Standards Act requirements for an employer-employee relationship.
- Meet the Selective Service requirements.

**IWT:** The following characteristics define IWT:

- Designed to meet the special requirements of an employer (including a group of employers) to retain a skilled workforce, avert the need to lay-off employees by assisting the workers in obtaining the skills necessary to retain employment, and/or provide training that will result in progression on a career pathway and income mobility.
- Conducted with a commitment by the employer to retain employees, avert the layoff(s) of the incumbent worker(s) trained for a period of six months following completion of the training or promote incumbent workers to higher paying positions.
- Increases the competitiveness of the employer or employee.
- Gives employees the opportunity to progress on their career pathway by providing opportunities to obtain certificates or credentials based on the employers need.

**IWT Allowable Costs:** The Local Boards' share of the cost of training (teacher, books, materials) for the delivery of IWT. This amount excludes the cost of individual wages paid by the employer while the employee is attending/participating in the training.

**Qualified Trainer:** Qualified training can be provided in-house, by a training agency, or by a third party. Training providers should be California-based, unless the training is so unique that a training provider cannot be found in California. The choice and method of training are determined by the employer.

**Training Method:** The following are types of training methods allowable for IWT:

- Classroom training is instruction in a classroom setting that is provided to a group of trainees and conducted by a qualified instructor.
- Laboratory training is hands-on instruction or skill acquisition under the constant and direct guidance of a qualified trainer. Laboratory training may require the use of specialized equipment or facilities. Laboratory training may be conducted in a simulated work setting, or at a productive work setting, also known as Productive Laboratory.
- Computer-based training is delivered through a computer program at a pace set by the trainee. There is no requirement for delivery by a live trainer and training does not have to be interactive.
- Video Conference training is live, interactive instruction provided by a trainer through a video communications session.
- E-Learning instruction is delivered through a web-based system, conducted in a virtual environment utilizing a web meeting/webinar.

### **PURPOSE:**

This policy is to provide guidance and establish the procedures regarding Incumbent Worker Training (IWT), pursuant to the requirements of the Workforce Innovation and Opportunity Act (WIOA), Department of Labor (DOL) Regulations, California State Directives, and the Workforce Development Board of San Luis Obispo (WDBSLO) County's local policy.

### **BACKGROUND:**

Incumbent Worker Training (IWT) provides both employees and employers with the opportunity to build and maintain a quality workforce by increasing the competitiveness of both. IWT is work-based training designed to ensure that employees can acquire and develop the necessary skills to avert layoffs or the upskilling of employees, so they can be promoted within their company and create backfill opportunities for employers.

IWT expenditures may account for up to 20% of a local area's Adult and Dislocated Worker funding allocation.

### **POLICY:**

WIOA Service Providers in San Luis Obispo County will utilize IWT as an appropriate and allowable business engagement activity, consistent with the definitions and requirements of WIOA. **Service providers must obtain prior written approval from the WDBSLO prior to implementing IWT activities in any given situation.**

It will be the service providers responsibility to support whether the proposed training will increase the competitiveness of the employees and/or the employer.

### **A. Employer Eligibility**

The service provider will assess and determine an employer's eligibility for participation in IWT. Eligibility for participation will be based on the following criteria:

- The characteristics of the individuals in the program (e.g. individuals with barriers to employment).
- The relationship of the training to the competitiveness of an individual and the employer.
- Other factors the WDBSLO in conjunction with the service provider determines appropriate which may include but are not limited to:

- a. The number of employees participating in the training.
- b. The employees' advancement opportunities, along with wages and benefits (both pre and post-training earnings).
- c. The existence of other training and advancement opportunities provided by the employer.
- d. Credentials and skills gained as a result of the training.
- e. Layoffs averted as a result of the training.
- f. Utilization as part of a larger sector and/or career pathway strategy.
- g. Employer size.

For an employer to be eligible for IWT services, the employer must:

- Provide a valid California Employer Account Number.
- Demonstrate a need for IWT, whether to avert layoffs or create advancement opportunities, resulting in wage and/or benefit increases, for current employees.
- Be registered as a preferred employer (recruiting employer) in CalJOBS<sup>SM</sup>.
- Provide the employee with a certificate of completion or credential upon culmination of training and provide the WDB with necessary data for monitoring purposes.

Participating employers are responsible for their share of the training costs; these may include wages the employer pays to the individual while they are attending the training. The employer's contribution may be in cash or in kind, fairly evaluated, and must be tracked and documented in the agreement file. The minimum amount of employer share in IWT depends on the size of the employer and are as follows:

- At least 10 percent of the cost for employers with 50 or fewer employees.
- At least 25 percent of the cost for employers with 51 to 100 employees.
- At least 50 percent of the cost for employers with more than 100 employees.

### **B. Employee Eligibility**

To qualify as an Incumbent Worker (IW), the employee must:

- Be at least 18 years of age
- Be a current employee by an eligible business and have an established employment history with the employer for six months or more. An employee is not held to the six-month employment requirement if the IWT is being provided to a cohort of employees. In this instance, not every employee must meet the employment history requirement as long as the majority of them meet it.
- Meet the Fair Labor Standards Act requirements for an employer-employee relationship.
- Meet the Selective Service requirements.

An IW is not required to meet the eligibility requirements for the Adult or Dislocated Worker program, unless they are also co-enrolled as a participant in the WIOA Adult or Dislocated Worker program and will receive WIOA funded services in addition to the IWT.

### **C. Funding**

IWT is part of a comprehensive business engagement strategy designed to meet the special requirements of an employer (including a group of employers) to upskill current employees. Service Providers may use up to 20% of their Adult and Dislocated Worker funding allocations for IWT activities. This 20% can only be used for programmatic activities and

cannot be used for administrative functions. IWT funding should be allocated to private sector employers, but there may be instances where non-profit and local government entities may receive IWT funds.

Rapid Response funds can be leveraged by including IWT as part of a robust layoff aversion strategy. IWT is part of a comprehensive business engagement strategy, therefore, the delivery of IWT does not require the use of an Individual Training Account (ITA) or that the training program be listed on the Eligible Training Provider List (ETPL). The San Luis Obispo County WDB in conjunction with the WIOA service provider shall determine which strategies and activities are applicable in each situation.

IWT expenditures are to be tracked by the service provider to ensure they do not exceed the 20% allowance of Adult and Dislocated Worker formula allocations. IWT expenditures can be counted toward the SB-734 participant training expenditure requirement in [WSD18-10](#) **only if the individual is eligible for and enrolled in WIOA services.** In this case, when a WIOA enrolled participant receives an IWT activity, the employer contributions for IWT can be counted as leveraged dollars to meet the SB-734 expenditure requirement.

## **PROCEDURES:**

### **A. Documentation/Employer Contract Requirements:**

A request *verbal or written* by an employer (or group of employers) and evaluation by the WDBSLO must be conducted to determine a demonstrated need for IWT. Once it has been approved by the WDBSLO the following conditions apply:

1. A written IWT contract between the Employer(s) and the Service Provider is signed and is on file prior to the initiation of the training. A copy of the agreement will be given to the Employer(s).
2. The terms of the training shall be indicated in the contract including:
  - a. Number of Employer(s) and Employee(s) participating in IWT
  - b. Choice, method and length of training
  - c. Selection of qualified trainer
  - d. Expected skills/competencies to be learned and/or gained
  - e. Certificate/Credential to be obtained
3. The IWT contract will also address the following:
  - a. Employer documentation of the six-month work history requirement
  - b. Maximum allowable costs of training
  - c. Employer commitment to retain the individual(s) as a full-time employee(s) with the same wages, benefits, hours and working conditions at minimum
  - d. Hourly wage of the individual (pre and post-training)
  - e. Assessment and identification of the individual's skills gaps
  - f. Performance measures outcome requirements
  - g. A provision for termination for lack of funds or recapture of overpayments, lack of individual attendance or failure of employer to comply with initial or upgraded employment requirements
  - h. A provision for maintaining and providing records for SLO County WDB, State and Federal monitoring and review.

## **B. Performance and Reporting Requirements**

IWT eligibility is determined at the employer level (not the individual level), individuals who only receive IWT are not included in the WIOA Adult or Dislocated Worker program performance calculations.

The DOL requires certain participation and performance data on individuals participating in IWT. The required information for these individuals is limited to demographic information, information necessary to calculate employment in the 2nd and 4th quarters after exit, median earnings in the 2nd quarter after exit, measurable skill gains, and certificate/credential attainment. For the purpose of calculating these metrics for IWT-only individuals, the exit date is the last date of training, as indicated in the training contract.

Employers are encouraged to provide the Social Security Numbers (SSNs) of their employees participating in IWT as part of their contract with the WIOA Service Provider. For all employees where an SSN is collected, the EDD will conduct a base wage match to obtain their employment and earnings. For those participants that have a pseudo SSN entered, it is the WIOA Service Provider's responsibility to provide supplemental data. Additionally, it is the Local Board's responsibility to ensure that the local WIOA service providers collect and enter all required and relevant data for all IWT participants into CalJOBS<sup>SM</sup>.

*\*Note – If the individual in IWT becomes a participant in the Adult or Dislocated Worker program at any point, they are included in performance calculations for the core program that provides additional services.*

## **C. CalJOBS<sup>SM</sup>**

### 1. IWT employee requirements:

All recipients of IWT must be reported to DOL, regardless of whether they become a participant in one of the other WIOA programs. Individuals who participate in IWT must be registered in CalJOBS<sup>SM</sup>, and do the following:

- Title I – Workforce Development application with an Incumbent Worker eligibility date entered. The application and eligibility requirements for the IWT eligibility is truncated and requires minimal information.
- On the Eligibility Summary tab of the Title I application:
  - Set “Incumbent Worker Eligibility” to yes.
  - Add the appropriate IWT grant code, then select [Finish] to save the application.
- CalJOBS<sup>SM</sup> Activity Code 308 – IWT should be added to the application and associated to the appropriate funding stream for the duration of the IWT. If utilizing WIOA formula funds, staff must associate grant code 2284 – Incumbent Worker Training Participant to the 308 – IWT activity code.

### 2. Employer requirements:

- Employer must be registered as a preferred employer (recruiting employer) in CalJOBS<sup>SM</sup>.

## **Exception to Policy**

There may be emergency or extenuating circumstances that would warrant an exception to this policy. Policy exception requests must be submitted in writing and approved by the DSS WIOA Program Manager or WDB Director.

**Availability of Funding**

Service providers will take necessary steps to provide IWT activities in a manner to provide services throughout the program year to employers who qualify for IWT activities. IWT funds distribution is contingent upon the availability of funds in the local area. However, funding may not exceed the maximum expenditures identified in this policy.

**ACTION:**

All WIOA Adult and Dislocated Worker Program Service Providers shall comply with this policy. This policy will remain in effect from the date of issue until such time that a revision is required.

**INQUIRIES:**

Any questions regarding this policy may be directed to the DSS WIOA Program Manager at 805-781-1838.

Workforce Development Board (WDB) Approval Required? Yes X No     

Initial approval date: 09/11/2019

WDB revision approval date: