



**NORTH CAROLINA DEPARTMENT OF COMMERCE
DIVISION OF WORKFORCE SOLUTIONS**

DWS Operational Guidance Number: OG 02-2021

Date: March 10, 2021

Subject: Guidance for Local Incumbent Worker Grants

From:

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Acting Assistant Secretary for Workforce**

Purpose: To provide operational guidance on Workforce Innovation and Opportunity Act (WIOA) guidelines in WIOA Section 134(d)(4) to Workforce Development Boards (WDBs) choosing to use up to 20% of the combined Adult and Dislocated Worker allocated formula program funds to pay for employees' training and to rescind Division of Workforce Solutions (DWS) PS 13-2020.

Definition: Incumbent Worker Training (IWT) is designed to meet the special requirement of an employer (including a 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. The IWT should increase the competitiveness of the employee and employer for the purposes of identifying high-quality Incumbent Worker (IW) opportunities. An ideal IWT would be one where a participant acquires new skills allowing him or her to move into a higher paid job within the company, thus, allowing the company to hire a job seeker to backfill the IW's position.

Background: To strengthen the workforce system and to implement the WIOA of 2014, local WDBs are permitted the use of up to 20% of the combined total of Adult and Dislocated Worker allocated formula program funds for employee trainings. Individuals are not subject to eligibility requirements for Adults under the WIOA; however, demographic information is required.

Federal requirements mandate that, at a minimum, the following data for each employee in training must be entered in NCWorks.gov:

- Complete Name
- Contact Information
- Social Security Number

- NC Driver's License or State ID
- Gender
- Date of Birth
- Citizenship (Right-to-Work Status)
- Selective Service Compliance (male gender)
- Disability Status (if disclosed)
- Ethnicity and Race
- Highest School Grade Completed
- Highest Education Level Completed

The Local IWT operational guidance must be submitted to the assigned DWS Planner for review prior to solicitation of Local IWT grants.

The NCWorks Online system will be used for tracking enrollments of IW participants; therefore, Local WDBs must contact DWS NCWorks Online staff prior to beginning local IWT, in order to establish a special system code.

Action: WDBs are required to collect and report outcomes based on criteria outlined in this operational guidance. The outcome measures should promote a skilled workforce by assisting employees in obtaining the skills necessary to retain employment or to avert layoffs and must increase both the employee's and the business's competitiveness.

The WDB's Local IWT operational guidance must:

- provide the amount designated as available with Local WDB funds or indicate the percentage of formula funds used;
- specify the grant award schedule, or indicate if the schedule is open or ongoing;
- state the maximum funding allowed per grant;
- specify the maximum lifetime limit for businesses and how it will be determined or disclose if there is no lifetime limit;
- provide a narrative of the Local WDB's focus or priorities for IWT (examples: certain industry sectors, size of business, and the impact on local/regional economies);
- provide the Program Outcome Measures on participants in IWT to include, but not limited to:
 - measure participants' wage gain;
 - measure participants' employment retention;
 - measure participants' training completion;
 - other outcomes the WDB deems relevant;
- provide the application and selection process to include the length of training and how each grant will be evaluated. Include the application and the pre-assessment award tool;
- provide the applicant criteria (e.g. qualifications, eligibility, and any restrictions);

- define the IW criteria;
- define the Collaborative Grant process, if applicable; and
- provide the Outcomes/Evaluation Process. This should include how each grant will be evaluated and capture the outcomes measures and the actual non-federal share of the business. Include a copy of any tools to be used for the evaluation process.

In addition to the criteria above, the following information must be included in the local IWT operational guidance:

Definition of Incumbent Worker

An Incumbent Worker is:

- at least 18 years of age and a paid employee of the applicant business or businesses;
- in a relationship that meets the Fair Labor Standards Act requirements for an employer-employee;
- an employee with an established employment history with the employer for six (6) months or more (*see exception);
- a citizen of the United States or a non-citizen whose status permits employment in the United States; and
- an employee to be trained who works at a facility located in North Carolina.

*Not every employee in the cohort must have an established employment history with the employer for six (6) months or more as long as more than 50% of those employees being trained meet the employment history requirement as stated in Training and Employment Guidance Letter (TEGL) 19-16.

Definition of an Employer-Employee Relationship

An Employer-Employee Relationship must exist between the worker and the employer. Workers who are economically dependent on the business of the employer and will receive a W-2 form for tax filing purposes have an employer-employee relationship.

Individuals who do not meet the definition of employer-employee relationship are:

- those who will receive a 1099 form for tax filing purposes; or
- those who are placed through a temporary agency.

Eligible Businesses

The intent of the Local IWT operational guidance is to provide services for current workers in established North Carolina businesses.

An Eligible Business will:

- be current on all tax obligations;
- have an employer-employee relationship with at least (insert minimum number of employees based on a local board decision) and;
- have been in operation in North Carolina 12 or more months.

The WDB's Local IWT operational guidance should be designed to meet the special requirements of an employer (including a group of employers) to retain a skilled workforce or avert the need to lay off workers.

IWT is not permitted to be used to provide the occupational training a new hire needs. IWT can be used to either:

- help avert potential layoffs of employees, or
- obtain the skills necessary to retain employment, such as increasing the skill levels of employees so they can be promoted within the company and create backfill opportunities for less-skilled employees.

Non-Federal Share Requirements

An employer or group of employers must pay for a portion of the cost of providing the training to IWs. This portion is defined as the non-federal share and rules for matching are provided at Uniform Guidance 2 CFR 200.306 and 2 CFR 2900.8, respectively, WIOA Section 134(d)(4)(D), and the U.S. Department of Labor Training Employment Guidance Letter (TEGL) 19-16.

The non-federal share shall be:

- not less than 10% of the cost for employers with not more than 50 employees;
- not less than 25% of the cost for employers with more than 50 employees but not more than 100 employees; and
- not less than 50% of the cost for employers with more than 100 employees. [WIOA Section 134(d)(4)(D)].

The non-federal share may include the amount of wages paid by the employer to a worker while the worker is participating in IWT. The employer may provide the share in cash or in kind, fairly evaluated. Other examples of an employer's non-federal share are training equipment purchases, onsite facility usage, employees' food, travel, or lodging.

If a Local WDB awards an IWT Grant to a business that has been identified as a Business Edge client, the state will reimburse the Local WDB for expenses.

Local IWT operational guidance must include the minimum IWT requirements outlined in this operational guidance. If the current Local IWT operational guidance includes requirements listed above, it is not required that a new operational guidance be submitted.

- Effective Date:** Immediately
- Expiration:** Indefinite
- Contact:** DWS Business Services Specialist
DWS NCWorks Online Staff
- Attachment:** Reimbursable / Non-Reimbursable Training Costs