



**Board Directive 2019-01
Incumbent Worker Training Directive – Effective July 1, 2018**

TO: Anne Arundel Workforce Development Corporation (AAWDC)

FROM: Walt Townshend
Chairman
Anne Arundel County Local Workforce Development Board

SUBJECT: Incumbent Worker Training

PURPOSE: To provide guidance on the use of Title I funds to create incumbent worker training programs.

ACTIONS: AAWDC management will ensure that all employees are educated on and have received copies of this policy. All Board Directives are posted on the Shared drive.

EXPIRATION: N/A

QUESTIONS: Jason W. Papanikolas, MBA
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CANCELLATIONS

PPM 2016-WDB-10 Incumbent Worker Training Policy

Approvals

MK Director, Research, Performance and Compliance

KTM Executive Director

JM Chair, Local Workforce Development Board

General Information

The Workforce Innovation and Opportunity Act (WIOA) was signed into law on July 22, 2014, and went into effect July 1, 2015. WIOA supersedes the Workforce Investment Act of 1998 (WIA) and amends the Adult Education and Family Literacy Act, the Wagner Peyser Act, and the Rehabilitation Act of 1973. Incumbent worker training provides both employees and employers with the opportunity to build and maintain a quality workforce. It can be used to help avert potential layoffs of employees or to increase the skill levels of employees, so they can be promoted within the company and create backfill opportunities for the employers. Section 134 of WIOA allows the Anne Arundel County Local Workforce Development Board to reserve up to 20% of Anne Arundel's combined adult and dislocated worker formula funds to pay the federal share for incumbent worker training strategies. The highlights of the incumbent worker initiative include:

- Helps businesses avert potential layoffs of employees.
- Assists employees in obtaining the skills necessary to retain employment.
- Priority is given small businesses in Anne Arundel's in-demand industries and occupations.

Incumbent Worker Training Policy

Business Eligibility

In order to participate in the incumbent worker training initiative, businesses must meet the following criteria:

- A company that operates under the provisions of Maryland law with a permanent Anne Arundel County location. Businesses must comply with the requirements of Fair Labor Standards Act or state minimum wage law, whichever is greater.
- Private sector business with a minimum of five employee and a physical work location outside of a personal residence.
- Incumbent worker training is allowable for full-time benefitted employees or underemployed workers (i.e. workers who would prefer full-time work but are working less than full-time for economic reasons).
- Business must not have laid off employees within the past 120 days prior to the proposed start of the training project.
- Business must attest, in writing, that it is not on the federal debarred list and is a business in good standing with the State of Maryland.

Participant Eligibility

In order to participate in the incumbent worker training initiative, the employee must have an established employment history with the employer for six months or more, which may include time spent as a temporary or contract worker performing work for the employer. Additionally, the employee must:

- Receive a W-2. The employee cannot receive a 1099, be a contractor, vendor, or temporary worker for the employer.
- Have unemployment insurance and worker's compensation premiums paid by the employer on the employee's behalf.
- Must perform work that is considered integral to the business.

Training Requirements

Businesses awarded funds through the initiative must take the necessary steps to provide incumbent worker training in specific, job-related skills that result in employees gaining transferable skills or an industry-recognized certification or credential. Training must be aligned with the company's strategic goals and objectives.

- Needs and costs must be reasonable and clearly related to the project as described in the training plan. Additionally, the method of training must be approved prior to the start of training.
- The Board's Administrative and Fiscal Entity, AAWDC, may reimburse up to \$3,500 per person for training that leads to a recognized credential. Training per person maximum is limited to a three-year period.

- Maximum per company is \$20,000 per fiscal year, contingent upon funding availability. Exceptions may be made on a case-by-case basis.
- The employer share of training costs is 50%.

Restrictions on Funds

The U.S. Department of Labor has placed the following restrictions on incumbent worker funds:

- Businesses who participate in an incumbent worker training project must agree to comply with the requirements of the Fair Labor Standards Act, including maintaining the employment and compensation of participants for the duration of the project, unless the maintenance of employment or compensation would be inconsistent with similarly situated employees who are not participating in the project.
- Incumbent worker training cannot consist of On-the-Job training (OJT). Incumbent worker training funds cannot be used to pay for participant's wages.
- A participant in an incumbent worker training project may not displace a current employee as of the date of project participation. Displacement is a reduction in hours, wages, or benefits, either in whole or in part.
- An incumbent worker training project cannot impact an existing contract for services or collective bargaining agreement (CBA). If the terms of a training project are inconsistent with a CBA, the labor organization must agree, in writing, to allow the project.
- A participant in a training project shall not be funded for training if:
 - Any other individual is on layoff from the same or equivalent job in the same business unit or department;
 - The business has terminated the employment of any regular employee or otherwise reduced their workforce with the intention of filling the resulting vacancy with the participant.
- Businesses participating in a training project must maintain the same health and safety standard, and working conditions for participants as the business does for non-participants.
- Funds may not be used to entice a business to relocate to Anne Arundel County. Funds are intended to assist incumbent workers at existing Anne Arundel County businesses. A business, therefore, must be established in Anne Arundel County for a minimum of 120 days prior to starting an incumbent worker project.

Performance Accountability

Incumbent workers are not subject to performance requirements of WIOA. As such, incumbent workers are not considered "participants" for inclusion into the Local Area's performance indicator calculations. The performance requirements of each project shall be established in negotiation between AAWDC and the business, and shall be specified in the training project plan.

Reporting and Monitoring

The Local Board has established the following standards for reporting and monitoring:

- Incumbent worker participants must complete a WIOA application that will be entered into the Maryland Workforce Exchange (MWE) incumbent worker program.
- Project application must be submitted and approved the Anne Arundel review team prior to the start of training.
- No reimbursement of training funds will be granted without prior application, approval, and authorization.
- AAWDC staff are responsible for executing contracts with successful applicants and oversight of the training projects.
- Businesses must take necessary steps to provide for the training of incumbent workers in specific skills that result in the employee obtaining an industry recognized certification or credential.
- The business must explain how the training will support layoff aversion or retention and growth of their workforce.
- Payment is by reimbursement only after the submittal to AAWDC proof of training attendance, successful completion of training and credential received.