



**GUAM WORKFORCE DEVELOPMENT BOARD
RESOLUTION NO. 2017-004**

**A RESOLUTION RELATIVE TO THE APPROVAL OF THE INCUMBENT WORKER
TRAINING PROGRAM POLICY NO. GWDB 17-001**

WHEREAS, the Workforce Innovation and Opportunity Act (WIOA) was signed into law on July 22, 2014, reauthorizing the Workforce Investment Act (WIA) of 1998; and

WHEREAS, WIOA transformed and redesigned the training and education programs to strengthen our nation's public workforce system by helping those with barriers to employment to access the education, training, and support services they need to obtain and advance in quality jobs and careers, and to help businesses hire and retain the skilled workers they need to succeed in a global economy; and

WHEREAS, the Incumbent Worker Training (IWT), as authorized in WIOA, is a work-based training and upskilling designed to ensure that employees of a company can acquire the skills necessary to retain employment and advance within the company, or to acquire the skills necessary to avert a layoff; and

WHEREAS, the Guam Workforce Development Board recognizes the importance of training programs to meet our local employers' demand to train or retrain their existing workforce; and

WHEREAS, the IWT will include improving the alignment of Guam's existing workers' skills with new job requirements, and creating new opportunities for entry-level workers through the promotion of existing workers, and supporting the overall enhancement of the local and regional economic development efforts; and

WHEREAS, the Guam Workforce Development Board authorizes up to **20%** of the Adult and Dislocated Worker program allocations to provide for the federal share of the cost of providing the Incumbent Worker Training.


RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, that the Guam Workforce Development Board (GWDB) adopts the Incumbent Worker Training (IWT), as authorized by the Workforce Innovation and Opportunity Act (WIOA), and shall supersede any prior IWT resolution or act of the Guam Workforce Development Board or the former, Guam Workforce Investment Board, which may be inconsistent with or duplicative of the provisions of this resolution.

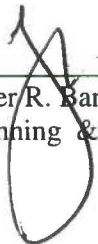
Adopted this 28th day of June, 2017.

ATTESTED:


For the GUAM WORKFORCE DEVELOPMENT BOARD

for 

Frank Blas, Jr., Chairman, GWDB

 _____ *for*
Peter R. Barcinas, Chairman
Planning & Coordinating Committee

**GUAM WORKFORCE DEVELOPMENT BOARD
American Job Center/GUAM DEPARTMENT OF LABOR**

APPROVED	RESPONSIBILITY	ORIGINATION DATE	NUMBER	PAGE
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TITLE: Incumbent Worker Training Program				

I. PURPOSE

The Workforce Innovation and Opportunity Act (WIOA) provides both workers and employers with the opportunity to build and maintain a quality workforce and increase both participants' and companies' competitiveness. The Guam Workforce Development Board (GWDB) understands the importance of promoting a high-skilled and job-ready workforce that meets the needs of employers.

The Incumbent Worker Training (IWT) is a type of work-based training and upskilling designed to ensure that employees of a company can acquire the skills necessary to retain employment and advance within the company, or to acquire the skills necessary to avert a layoff. It is also an important Business Services Unit initiative that is designed to benefit businesses and demand occupations, driven by labor market information.

Under WIOA, the Workforce Development Boards may reserve and use not more than 20 percent of its combined adult and dislocated worker formula allotments for Incumbent Worker Training.

II. POLICY

The Incumbent Worker Training (IWT) Program:

- can be used to avert potential layoffs of employees;
- is intended for workers with an established work history with their current employer;
- can be used to 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 a backfill of opportunities for less-skilled employees.
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The Incumbent Worker Training Program:

- Is not permitted for occupational training of new hire needs;
- Must demonstrate linkages of the training activity to demand occupations and/or targeted industries;

III. GUIDELINES FOR DETERMINATION OF ELIGIBILITY

DEFINITION

Incumbent worker defined (**per 20 CFR §680.780**)

To qualify as an incumbent worker, the incumbent worker needs to be employed, meet the Fair Labor Standards Act requirements for an employer-employee relationship, and have an established employment history with the employer for 6 months or more, with the following exception: In the event that the incumbent worker training 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 as long as a majority of those employees being trained do meet the employment history requirement. An incumbent worker does not have to meet the eligibility requirements for career and training services for adults and dislocated workers under WIOA, unless they also are enrolled as a participant in the WIOA adult or dislocated worker program. [Per 20 CFR §680.780, Final Rule]

A. INCUMBENT WORKER

There is no income eligibility for incumbent workers. However, the following minimum requirements apply:

- i) An IW must be 18 years old and above, a U.S. citizen or a non U.S. citizen legally authorized to work in the United States, and comply with the Selective Service provisions (if applicable);
- ii) An IW must be currently employed with the participating employer;
- iii) An IW must need skill upgrading or retraining, completion of a GED or High School Diploma, basic skills upgrade, etc., to retain employment, be promoted and/or be successful in their employment with the company.

An Incumbent Worker must be:

- i) 18 years old and above, a U.S. citizen or a non-U.S. citizen legally authorized to work in the United States, and comply with Selective Service provisions;
- ii) employed in the participating employer;
- iii) meet the Fair Labor Standards Act (FLSA) requirements for an employer-employee relationship and have an established employment history with the employer for at least six (6) months or more; and
- iv) the exception to the six-month employment requirement as indicated in (iii) above, is if the Incumbent Worker Training is being provided to a cohort of employees, not every employee in the cohort is required to have an established employment history of six (6) months or more, as long as a majority of the employees in the cohort meet the employment history requirement.

An incumbent worker does not have to meet eligibility requirements of the career and training services for adults and dislocated workers, unless the individual is participating in career and training services for Adult or Dislocated Worker programs.

B. Employer Eligibility Criteria

The following requirements relate to the requesting employer:

- i) Must demonstrate that incumbent worker training will increase an employer's ability to create and/or retain jobs or fill critical openings;
- ii) The training must lead to or offer industry-recognized credentials and/or advancement opportunities for incumbent workers;
- iii) the occupation(s) for which an incumbent worker training is being provided must be in-demand as determined by the labor market information (LMI) produced by the Guam Department of Labor Bureau of Statistics.

- iv) the employer must not have laid off workers and relocated within 120 days prior to receiving incumbent worker training services;
- v) The employer is current in local taxes.

C. Employer Share of the Training Costs

The employer share of the training cost is based on the size of the workforce as follows:

- i. At least 10 percent (10%) of the cost for employers with 50 or fewer employees;
- ii. At least 20 percent (20%) of the cost for employers with 51 to 100 employees;
- iii. At least 50 percent (50%) of the cost for employers with more than 100 employees.

Employers are required to pay the non-federal share of the cost of providing incumbent worker training.

D. Tracking and Documenting

The Guam American Job Center Business Service Unit (BSU) is responsible for tracking and documenting employer cost share contributions in the employer's file and in the American Job Center's (AJC) Virtual One-Stop (VOS).

E. Employer Contractual Requirements

The contract between the Guam American Job Center and the Incumbent Worker Training (IWT) Employer must ensure that those employees participating in the IWT are provided a structured training opportunity to gain the skills and competencies necessary to be successful in the occupation in which they are training. The IWT employer contract shall include:

- i. The training plan that includes the occupation, skills, and competencies to be learned.
- ii. An outline of the work-based and/or classroom training that will be provided;
- iii. The length of training time;
- iv. The wage rate for each employee participating in the IWT;
- v. The percentage rate used for reimbursement to the employer and the maximum amount for reimbursement;
- vi. The employer share of the costs;
- vii. That the reimbursement is strictly for regular hours worked, and does not include paid time off (e.g. sick leave, vacation, holidays, jury duty, etc.), overtime, or benefits;
- viii. The employer's agreement to maintain and make available time and attendance, payroll and other required documentation to support amounts claimed by the employer for reimbursement and cooperate with state and local monitoring;
- ix. Assurances that training will be in accordance with WIOA Section 181 (fair and equal wages, prohibition on displacement of current employees, equal benefits and working conditions, prohibition on use of funds after relocation, collective bargaining);
- x. Assurances that training will be in accordance with the WIOA Final Rule, §680.780 – 680.820; and
- xi. Assurance that the employer will be in accordance with WIOA Section 188, the non-discrimination and equal opportunity provisions.

F. Employer Incumbent Worker Submission

The Incumbent Worker Training may be approved based on the following documents submitted as a proposal:

- Scope of Work
- Statement of Training Need by Employer (including industry classification)
- Benefit to Incumbent Workers including the number of employees to be training, characteristics workers, and how they would benefit from retention or advancement
- Occupational Classification and average wages of trainees

- Training Outline including deliverables and approximate timeline for training
- Training Outcomes including skills learned, industry-recognized credentials, advancement opportunities
- Budget, including cost summary for entire program and letter certifying the amount the employer will pay for the program.
- Labor Market Information.

Incumbent Worker Training – IW SERVICE ONLY	Incumbent Worker Training – ADDITIONAL CAREER, SUPPORTIVE, TRAINING SERVICES
An Incumbent Worker (IW) who receives the IW service only and no other career, supportive, or training services provided with WIOA Title I funds must only meet the WIOA + local definition of an incumbent worker.	An Incumbent Worker (IW) receiving additional career, supportive, training services provided with WIOA Title I funds must meet priority of service for the Adult program, program and/or training eligibility for either the Adult and/or Dislocated Worker program.
<p>An Incumbent Worker (IW) receiving only IW and no other career, supportive, or training service provided with WIOA Title I funds, will NOT become a participant or be counted for the Adult or Dislocated Worker primary indicators of performance. Such individuals:</p> <ol style="list-style-type: none"> 1) Must fill out a Registration form at the American Job Center under IWT program. 2) Must be enrolled in the IWT Program code only. 3) Must have the IWT service code added to their record. 4) Will have performance outcomes reported separately to USDOL as part of the PIRL. 5) Must be hard-exited on the end date of the IWT service. 	<p>An Incumbent Worker (IW) receiving services in addition to the IWT service must be enrolled based on the requirements and procedures of the Adult or Dislocated Worker program. The IW becomes a participant and is counted in the primary indicators of performance for the program. Such individuals:</p> <ol style="list-style-type: none"> 1) Must be registered using the complete WP and WIOA application, process, and procedures. 2) Must be enrolled in the Adult or Dislocated Worker program code. 3) Must have the IWT service code added to their record in the VOS. 4) Are counted in the Adult or Dislocated Worker primary indicators of performance. 5) Follow the exit rules for the Adult or Dislocated Worker participants.

REGULATORY LIMITATIONS AND PROHIBITED ACTIVITIES

Funds provided to employers for incumbent worker training must not be used to directly or indirectly assist, promote, or deter union organizing.

An employee or participant in an incumbent worker training will not be employed in or assigned to a job if:

- Any other individual is on layoff from the same or any substantially equivalent job;
- The employer has terminated the employment of any regular, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy with the participant; or
- The job is created in a promotional line that infringes in any way on the promotional opportunities of currently employed workers.

An employee or participant in a program or activity authorized under Title I of WIOA must not displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).

Payments to Employers and tracking the employer share of the Incumbent Worker Training (IWT) costs must clearly document the number of hours worked each day by the participant and rate of pay for the time period. Invoices must be signed by both the employee/participant and the employer, or only by the employer if accompanying documentation (timesheets/time cards) are signed by the employee/participant and reconciled to the invoice. The reimbursement is for regular hours worked, but does not include paid time off (e.g. sick leave, vacation, holidays, jury duty, etc.), overtime, or benefits. It may include time in classroom training that is part of the IWT, and occurs during regular work hours.

INCUMBENT WORKER CASE FILES

Case files shall include documentation as follows:

- a. Incumbent Worker Training Application
- b. Qualification for IWT per local policy definition of an incumbent worker
- c. Copy of the IWT contract including
 - o Percentage of reimbursement to employer;
 - o Amount of reimbursement, based on hours worked and wage rate;
 - o Type of training and length of the IWT, based on factors established in local policy; and
- e. Notes documenting trainee's progress, including employer progress reports, that should be submitted quarterly. It shall be the responsibility of the case manager to collect this information and document the transmittal and receipt details in the VOS.
- f. If enrolled in the Adult or Dislocated Worker services, the standard case file documentation also applies, with one participant case file for all services/programs.

MONITORING

The Incumbent Worker Training (IWT) shall be subjected to an annual program monitoring by the Guam Department of Labor, which includes a sample review of IWT contracts and case files to ensure compliance with Federal and local policies. If incumbent workers are enrolled in the Adult or Dislocated Worker program, all Adult and/or Dislocated Worker documentation and programmatic requirements will also be monitored. This annual program monitoring will include a review of the IWT fiscal transactions, if necessary.

On-site monitoring of IWT employers is required to ensure validity and propriety of the reimbursement amounts claimed by employers and to verify that the training for which the contract is written, is delivered. The Guam Department of Labor's monitoring procedures must include, at a minimum:

- a. Roles of the employer, participant, and Guam Department of Labor Business Service Unit representative;
- b. Monitoring of IWT providers and worksites to ensure that all parties are in compliance with contract deliverables, cost, performance, and goals, including type and length of training;
- c. Desk review of invoices and supporting documentation;
- d. Employer outreach strategies and equitable selection;
- e. On-site monitoring of worksite conditions;
- f. Validation of skill and competency attainment for participants; and
- g. The review of employee/participant and employer files as it relates to the Incumbent Worker Training.

INCUMBENT WORKER TRAINING

Training made available to help companies grow and maintain competitiveness by investing in training of their existing workforce. Job training programs may include training designed to increase the basic skills of employees including, but not limited to, training in written and oral communication, mathematics or science, or training in technical and technological skills. Training is structured to be flexible to meet the business's training objectives.

Incumbent Worker Training is training:

(a) 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 employees by assisting the workers in obtaining the skills necessary to retain employment.

(b) Conducted with a commitment by the employer to retain or avert the layoffs of the incumbent worker(s) trained.

TYPES OF INCUMBENT WORKER TRAINING (IWT)

IWT is restricted to skill attainment activities. The training should benefit workers by making them more qualified in their line of business and/or by providing them with skills for new products or processes. It is desired that the training results in credentials or industry recognizable skills that promote the worker's career and increases the overall employability.

Allowable types of training for incumbent workers:

- 1) Skills upgrading and retraining: Short-term training that enhances occupation-specific skills or basic skills that lead to a credential/certificate.
- 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.
- 3) Occupational skill training (individual training accounts): Training that leads to an industry recognized credential or a certificate.

IN-DEMAND INDUSTRY SECTOR OR OCCUPATION (per WIOA Section 3(23))

The term "in-demand industry sector or occupation" means—

(i) an industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the State, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors; or

(ii) an occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the State, regional, or local economy, as appropriate.

DETERMINATION

The determination of whether an industry sector or occupation is in-demand under this paragraph shall be made by the State board or local board, as appropriate, using State and regional business and labor market projections, including the use of labor market information.

**INCUMBENT WORKER TRAINING PROGRAMS (per WIOA Sec. 134 (4) (A))
IN GENERAL –**

(i) **STANDARD RESERVATION OF FUNDS.** – The local board may reserve and use not more than 20 percent of the funds allocated to the local area involved under section 133(b) to pay for the Federal share of the cost of providing training through a training program for incumbent workers, carried out in accordance with this paragraph.

INCUMBENT WORKER TRAINING 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:

1. A worker's job is saved at an existing employer facing a risk of downsizing or closing; or
2. 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.

In the Guam Combined State Plan:

2. Implementation of State Strategy

A. Core Program Activities to Implement the State's Strategy

Incumbent Worker Training is also supported. The Board may reserve funds to pay for the federal share of the cost of providing training through an incumbent worker training program. If made available, training will take into account characteristics of participants in the program, relationship of the training to competitiveness of participants and employers, and other factors such as number of employees, wage and benefit levels, and existence of other training to support advancement opportunities. The cost will be shared with employers on a sliding scale based on employer size. The AJC will utilize information gathered from business feedback to inform the need for incumbent worker training and will market available opportunities, as appropriate.

For Statewide Activities:

B. Describe how the State intends to use Governor's set aside funding. Describe how the State will utilize Rapid Response funds to respond to layoffs and plant closings and coordinate services to quickly aid companies and their affected workers. States also should describe any layoff aversion strategies they have implemented to address at risk companies and workers. The Guam Workforce Development Board is ultimately responsible on behalf of the State to deliver Rapid Response services according to section 133(a)(2). The Board along with the one-stop partners have implemented the wrap-around Rapid Response services designed to assist workers affected by a layoff in getting quickly connected to public assistance benefits and services such as career counseling, job search assistance, information on the labor market, resume preparation and information about education and training opportunities. The Rapid Response Program is designed for two major purposes:

- To help growing businesses obtain the information and resources needed to stay competitive including links to skilled workers; and
- To respond to layoffs and closures by quickly coordinating services and providing immediate aid to management and affected workers