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## Region 1 Workforce Development Board Policy Letter #11 – Change 1

**Subject:** Incumbent Worker Policy

**Effective Date:** February 13, 2019

**Purpose:** To clarify criteria by which Region 1 Workforce Development Board (R1WDB) determines which workers, or groups of worker, are eligible for incumbent worker services and the cost sharing required for incumbent worker training projects (WIOA Section 134(d)(4)).

**References:** Workforce Innovation and Opportunity Act of 2014 (WIOA), Section 3(23); WIOA Section 134(d)(4); Proposed 20 CFRs 680.780, s680.790, s680.800, s680.810, s680.820, s682.210(b), and s682.320(b)(3).

**Background:** 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. The training must satisfy the requirements in WIOA Section 134(d)(4) and s680.790 and increase the competitiveness of the employee or employer. An incumbent worker does not necessarily have to meet the eligibility requirements for career and training services for adults and dislocated workers under this Act. R1WDB may reserve and expend up to 20 percent of their combined Adult and Dislocated Worker formula allotments for incumbent worker training. States may use state Rapid Response funds [WIOA Section 134(a)(3)(A)(i)] for layoff aversion and WIOA Governor's discretionary funds for statewide incumbent worker training activities.

**Action:** R1WDB will consider the following factors when determining the eligibility of employers to receive the WIOA share of funds to provide training to incumbent workers using either, local Adult and/or Dislocated Worker formula funds or WIOA statewide discretionary funds provided by the Governor:

1. The characteristics of the incumbent workers to be trained, specifically the extent to which they historically represent individuals with barriers to employment as defined in WIOA Section 3(24), and how they would benefit from retention or advancement;
2. The quality of the training (e.g., industry-recognized credentials, advancement opportunities);
3. The number of participants the employer plans to train or retrain;
4. The wage benefit levels of participants (before and after training);
5. The employer must not have laid off workers within 12 months and must have a commitment to retain or avert the layoffs of the incumbent worker(s) being trained;
6. R1WDB will document these factors in approving an incumbent worker training project with an employer.

**Employer Share of Training Costs:** Employers participating in incumbent worker training are required to pay the non WIOA (non-federal) share of the cost of providing training to their incumbent workers. Employers will be reimbursed the WIOA (federal) share. The employer share is based on the size of the workforce (wages paid to the participant while in training can be included as part of that share) 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

**Definitions:**

Incumbent Worker – An individual who is employed, meets Fair Labor Standards Act requirements for an employer-employee relationship, and has an established employment history with the employer for 6 months or more.

Incumbent Worker Training – Training designed to meet the special requirements of an employer (or group of employers) to retain a skilled workforce or avert the need to lay off employees by assisting workers in obtaining the skills necessary to retain employment and conducted with a commitment by the employer to retain or avert laying off incumbent worker(s) that are trained in order to increase the competitiveness of the employee and/or employer.

**Expiration Date:** This policy shall be in effect until revised or canceled by the Region 1 Workforce Development Board.

**Approved: February 13, 2019 - Executive Committee**  
**February 14, 2019 - Workforce Development Board**  
**February 20, 2019 - Local Elected Officials Board of Directors**