

# INCUMBENT WORKER TRAINING

This policy provides guidance and establishes the procedures regarding Incumbent Worker Training, an allowable training service under WIOA.

## PURPOSE

Incumbent Worker Training (IWT) is 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.

An IWT provides an employee with new skills allowing them to move into a higher skilled positions and higher paid jobs within the company, thus allowing the company to hire a job seeker to backfill the incumbent worker's position. IWT should be offered with the goal to increase both a participant's and a company's competitiveness.

## FUNDING

DLR may reserve up to 20% of their combined total of adult and dislocated worker allocations for incumbent worker training or the state may use their statewide set-aside and Rapid Response funds for incumbent worker training. IWT funds cannot cover costs incurred prior to the IWT agreement. Payment is not a guarantee but rather based on DLR's funding from U.S. DOL.

## EMPLOYER ELIGIBILITY REQUIREMENTS

IWTs may be written for private-for-profit businesses, private non-profit organizations, and public sector employers. An employer must be registered in SDWORKS. An employer cannot have an individual on layoff from the same or equivalent position and must agree to the terms identified in 10b Conditions and Assurances. Employers receiving IWT are exempt from the Eligible Training Provider List requirements. DLR will only provide IWT funding for businesses residing in South Dakota.

## EMPLOYEE ELIGIBILITY REQUIREMENTS

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 are also enrolled in these programs. However, all incumbent workers must be enrolled in Title III Wagner-Peyser program and can be enrolled in the Title I programs. IWT may also be used for the Related Technical Instruction as required by a Registered Apprenticeship program.

For an employer to receive incumbent worker training funds, the employee must:

- Be employed full-time (minimum of 32 hours per week), permanent position with the employer. Seasonal and temporary employees are not eligible for incumbent worker training.
- Meet the Fair Labor Standards Act (FLSA) requirements for an employer-employee relationship.
- Training relates to high demand occupations as determined by the DLR Labor Market Information Center.
- Have an established employment history with the employer for six months or more. **EXCEPTION:** *If there is a cohort of incumbent workers, not every employee in the cohort must have an established employment history with the employer for six months or more if a majority of those being trained meet the employment history requirement.*
- Complete the steps to request services at <https://dlr.sd.gov/localoffices/virtual.aspx>, and identify as Incumbent Worker Training in the "Other" field on page 1 of the intake packet.

## TRAINING SPECIFICATIONS

- The incumbent worker program is NOT permitted to provide the occupational training needs of a new hire.
- The training program may not last longer than 12 months.
- Training must be conducted through a third-party training provider.

## OUTCOMES

An IWT results in:

- Layoff aversion and retention opportunities; or
- Increase the skill levels of employees so they can be promoted within the company and create backfill opportunities for the employer; or
- Credentials and skills gained as a result of completing the training; or
- The training improves the labor market competitiveness of both the employer and employees.

Upon completion of the IWT, an employee must remain employed full-time (minimum of 32 hours per week) in a permanent position with the employer.

## APPLICATION

Employers seeking IWT must complete a Training Application for Businesses ([Form 50](#)) and the Equal Opportunity at least 30 days prior to the start of training. IWT funding is not guaranteed for all eligible applicants.

Once an application is received, DLR will contact the business within five working days. If the application is approved, an agreement will be established between DLR and the employer. Once the agreement is in place, all incumbent workers must complete the steps at the [Virtual Job Service](#).

## EMPLOYER CONTRIBUTION

Employers participating in the IWT are required to pay any cost not covered by the DLR to the third-party training provider. Prior to the release of payment from DLR, the employer must submit verification of payment to the third party to DLR.

Calculations of employer share is determined below:

- 10% of the tuition/registration/credential test cost, for employers with not more than 50 employees in South Dakota;
- 25% of the tuition/registration/credential test cost for employers with more than 50 employees but not more than 100 employees in South Dakota; and
- 50% of the tuition/registration/credential test cost for employers with more than 100 employees in South Dakota.

## AGREEMENT

If the application is selected for award, an agreement between the DLR and the employer will be established by the Training Application for Businesses ([Form 50](#)) includes the total cost of the training and training dates.

## REIMBURSEMENT FOR TRAINING

Reimbursement to the employer will be issued upon completion of the training. Payment will be provided for those employees who successfully complete the training. Payment is not reliant on the employee's ability to pass the certification test. For payment to be released, DLR requires the following to be submitted:

- An itemized invoice from the training provider
- Verification of non-DLR share to the training provider
- Copy of the completion certificate issued by the trainer for each employee that received the training
- Copy of certifications earned

## **MONITOR**

Monthly Monitors must be completed for any type of training that is beyond 30 days to evaluate the progress to date and identify issues of concern to ensure a successful training. Monitoring of progress must be done on a monthly basis using the Monitor Progress Report ([Form 22](#)).

## **APPEAL PROCESS**

To appeal the decision of DLR staff, an employer will contact the manager at the [Job Service Office](#) within 15 calendar days of the decision to explain their appeal with the manager. The manager will then provide a solution or explanation within 15 calendar days. If the employer would like to appeal the manager's decision or finds it difficult to discuss the problem with the manager, they may proceed directly to the Director of Workforce Development as discussed in the next paragraph.

If the employer chooses to appeal the manager's decision, written justification and any supporting documentation should be provided to the Director of Workforce Development within 15 days from the manager's response. If a written appeal is not received by the Director within 15 calendar days of the manager's decision, the manager's decision will be final.

Director of Workforce Development  
South Dakota Department of Labor and Regulation  
123 W. Missouri Ave. Pierre, SD 57501

The Director of Workforce Development will make a final determination in writing within 15 days of receipt of the letter. If additional time is required for the manager or Director of Workforce Development to provide a meaningful response, the employer will be notified of the anticipated response date.

**20 CFR § 680.780 – 680.840**  
**WIOA sec. 134(d)(4)**  
**TEGL 19-16**