



Mid-Maryland WIOA

TO: Mid-Maryland WIOA Area Staff

FROM: Francine Trout, Director, Mid-Maryland WDA

DATE: April 11, 2018

EFFECTIVE DATE: Immediately

SUBJECT: **Incumbent Worker Training Policy**

Incumbent Worker Policy

Incumbent Worker Training provides both workers and employers with the opportunity to build and maintain a quality workforce and is governed by sections 20 CFR 680.780 through 820 of the Final Rule. Incumbent worker Training is designed to meet the needs of an employer or a group of employers to retain a skilled workforce or avert layoffs. Incumbent worker training is not permitted to be used to provide the occupational training needs of a new hire (TEGL 19 - 16).

PROGRAM HIGHLIGHTS

- Mid-Maryland's (Carroll and Howard Counties) incumbent worker training program helps businesses to 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 with the company and create a backfill of opportunities for less-skilled employees.
- Employer-based training projects targeted for in-demand industries, and industry sectors identified in the Mid-Maryland PY2016-2020 Strategic Plan.
- Up to 50% match of approved training cost by eligible business is required.
- Up to 20% of federal Workforce Innovation and Opportunity Act (WIOA) Adult and Dislocated Worker funds may be used for training incumbent workers (contingent on funding availability) following Department of Labor Training and Employment Guidance Letter WIOA (TEGL) No. 19-16 and section 134(d)(4) of WIOA and 20 CFR 680.800.

BUSINESS ELIGIBILITY CRITERIA FOR PARTICIPATION

- Mid-Maryland companies that operate under the provision of Maryland law with a permanent Mid-Maryland location. Business must comply with the requirements of Fair Labor Standards Act (FLSA) or the state minimum wage law; whichever is greater.
- Private sector businesses with a minimum of five employees and a physical work location outside of a personal residence.
- Incumbent worker training is allowable for full time (32 hours a week or more), benefited employees or underemployed workers - e.g. workers who would prefer full-time work but are working part-time for economic reasons. TEGL 19-16.
- Priority is given to businesses with 50 employees or less in the targeted in-demand industries, and industry sectors identified in the Mid-Maryland PY2016-2020 Strategic Plan.
- 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 is not on the federal debarred list and is a business in good standing with the State of Maryland, Howard and Carroll counties.

TRAINING PARTICIPANT ELIGIBILITY

- The participant has 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 receiving incumbent worker funds (TEGL 19-16) and
 - Receives a W-2 as opposed to at 1099, is not a contractor or vendor for the business and is a regular employee who is currently employed, not a temporary worker.
 - The business pays unemployment insurance and workers' compensation premiums on the individual's behalf.
 - The work performed is considered to be integral to the business.

NOTE: There is one exception to the six-month requirement, which is that in the event that 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 six months or more as long as a majority of those employees being trained meet the employment history requirement. TEGL 19-16. An incumbent worker need not meet WIOA Adult and Dislocated Worker eligibility requirements, however they must provide sufficient documentation of age, citizenship, Social Security Number and Selective Service status (for males born after December 31, 1959) in order to enroll the individual into the Maryland Workforce Exchange.

TRAINING REQUIREMENTS

Incumbent worker training is designed to meet the needs of an employer or group of employers to retain a skilled workforce or avert layoffs. Incumbent worker training is not permitted to be used to provide the occupational training for a new hire needs. Incumbent worker training provides both workers and employers with the opportunity to build and maintain a quality workforce and is governed by sections 20CFR680.700 through .820 of the Final Rule. Incumbent worker training 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. TEGL 19-16.

Businesses awarded funds through the program must take the necessary steps to provide incumbent worker training in specific, job-related skills that result in workers 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 by Mid-Maryland prior to start of training.
- Mid-Maryland may reimburse up to \$2,500 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 \$25,000 per fiscal year contingent upon funding availability. Exceptions may be made on a case-by-case basis.

The minimum amount of employer share in the incumbent worker training depends on the size of the employer, funding availability and may not be less than:

- 10 percent of the cost, for employers with 50 or fewer employees;
- 25 percent of the cost, for employers with between 51 to 100 employees; and
- 50 percent of the cost, for employers with more than 100 employees. TEGL 19-16.

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 (FLSA), 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 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 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 standards, and working conditions for participants as the business does for non- participants.
- Funds may not be used to entice a business to relocate to Mid-Maryland. Incumbent worker funds are intended to assist existing Mid-Maryland businesses. A business must be established in Mid-Maryland for a minimum of 120 days prior to beginning an incumbent worker training project.
- Incumbent worker participants will complete a WIOA application that will be entered into the Maryland Workforce Exchange, Mid-Maryland Incumbent Worker award process.
- Project applications must be submitted and approved by the Mid-MD review team **prior** to the start of training.
- No reimbursement of training funds will be granted without prior application, approval and authorization.
- Mid-MD staff is responsible for executing contracts with successful applicants and oversight of the training projects.
- Businesses 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 lay-off aversion or retention and growth of their workforce.
- All training recipients must complete a WIOA Maryland Workforce

- Exchange application.
- Payment is by reimbursement only after submittal to Mid-MD team of proof of training attendance, successful completion of training and credential received.

**Veterans and eligible spouses will be given priority of service in time and funding.

As an equal opportunity program; discrimination, in WIOA Title I financially assisted programs or activities is prohibited by federal law and by Howard and Carroll County Government. Auxiliary aids and services are available upon request for individuals with disabilities. For accommodations in Howard County, please contact Stephanie Hill at 410-290-2620 or contact us using MD Relay at 7-1-1. In Carroll County, anyone requiring an auxiliary aid or service for effective communication or who has a complaint should contact The Department of Citizen Services, 410.386.3600 or 1.888.302.8978 or through MD Relay 7-1-1/1.800.735.2258 as soon as possible but no later than 72 hours before the scheduled event.

The Personally Identifiable Information (PII) collected will be used as required by the Workforce Innovation and Opportunity Act, US Department of Labor, State of Maryland, and Howard and Carroll County Governments and will comply with the Privacy Act of 1974. The collection and use of all personal information is guided by strict standards of confidentiality.