



WIA POLICY LETTER NO. 07-PL-33

TO: Chief Elected Officials
Local Workforce Investment Board Chairpersons
Local Workforce Investment Board Staff
WIA Fiscal Agents and Grant Recipients
Program Services Administrators
One-Stop Operators
WIA State Agency Partners
Other Interested Persons

SUBJECT: Incumbent Worker Training Waiver

DATE: July 27, 2007

I. SUBJECT INDEX

Special Projects

II. PURPOSE

This policy provides Local Workforce Investment Boards (LWIBs) with information and guidance on implementing a newly approved waiver granting authority to divert up to ten (10) percent of adult, dislocated worker, and youth allocations to support incumbent worker training programs.

These programs will assist Economic Development Regions (EDRs) and/or Local Workforce Investment Areas (LWIAs) in developing a full continuum of training services that address the needs of the existing workforce, the unemployed, underemployed, and new entrants to the labor force as well as meeting the leverage requirements for the Critical Skill Shortages Initiative.

The policy is being continued beyond the original expiration date of June 30, 2007.

III. ISSUANCES AFFECTED

A. References:

Workforce Investment Act of 1998, 117 (e), 118 (c), and Section 134 (a)(3)(iv)(I)
Workforce Investment Act Final Rule; Section 661.345, 665.220, 665.268, and 667.268
29 CFR 97.24
PY'00 WIA PL 00-14, Pre-Award Survey for Relocating Establishments (December 28, 2000)
PY'01 WIA PL 01-26, Reallocation of Workforce Investment Act Funds (November 7, 2001)
PY'01 WIA PL 01-31 Change 2, Reporting of Obligations and Re-allotment under the Workforce Investment Act (WIA) (March 11, 2004)
U.S. Dept. of Labor Waiver Approval Letter (July 12, 2005)

B. Rescissions:

WIA PL 05-PL-11, Incumbent Worker Training Waiver (November 10, 2005)

IV. DEFINITIONS

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| Employed Worker | An individual who is employed and is determined to be in need of intensive service to obtain or retain employment. |
| Incumbent Worker | <p>a) An individual who has an employment relationship with either a participating employer in a targeted industry (as cited in the local WIA plan), or an employer being provided incumbent worker training as part of an economic development incentive package; and</p> <p>b) Is receiving upgrade training:</p> <ul style="list-style-type: none">• to increase his or her skills in an occupation in which the individual is already an incumbent; or• to prepare the worker for entry into a new occupation within the targeted workforce (i.e., the workforce of the participating employer or group of employers). <p>c) A group of employers, as cited in "b" above, may be locally defined. However, to be part of the group, such employers must be actively participating in a WIA funded incumbent worker training program. And, such groups must be industry focused. For example, a group of employers may be associated due to supply</p> |

relationships, such as an original equipment manufacturer (OEM) and the firms in the OEM's supply chain. Or, a group of employers may be associated through an industry-related organization. Employers participating in consortia created through the State funded Critical Skill Shortages Initiative (CSSI) may also be considered eligible groups of employers for the purposes of delivering incumbent worker training.

V. BACKGROUND

A priority of Governor Blagojevich is to strengthen Illinois' workforce system to build a skilled and globally competitive workforce throughout the state. Toward this end, the Department of Commerce and Economic Opportunity (DCEO) has been working to link economic development and workforce programs through various initiatives and strategies.

One initiative created to support the Governor's vision is the Critical Skill Shortages Initiative (CSSI). This initiative is a collection of distinct projects designed to address a number of different causes that contribute to a projected labor shortage in one or more targeted occupations in one of the ten Economic Development Regions (EDRs) throughout Illinois. A training component within CSSI allows for incumbent worker training programs.

To complement CSSI and further align economic development and workforce programs, DCEO sought a waiver in May of 2005 from the United States Department of Labor (DOL), to allow LWIBs to divert up to 10 percent of their adult, dislocated worker, and youth allocations to support incumbent worker training programs.

This waiver allows the state to go beyond the traditional statewide funding of incumbent worker programs by providing funding flexibility at the local level. Specifically, the waiver allows LWIBs to use up to ten (10) percent of the funds allocated to them under WIA in the same manner as statewide activity funds are now used for the "implementation of innovative incumbent worker training programs" as described in WIA Section 134 (a)(3)(iv)(I).

As described in the State's waiver request to DOL, this authority will:

- allow LWIBs to develop a full continuum of training services that address the needs of the existing workforce, the unemployed, underemployed, and new entrants to the labor force;
- attract greater participation in the system by local businesses, encouraging the creation of strong public-private partnerships;

- assist the LWIBs in meeting the leverage requirements under CSSI using their own local WIA funds for incumbent worker training projects;
- help LWIBs increase the market penetration of their local employer base; and
- reach new customers for Illinois' One-Stop System.

On July 12, 2005 the state received approval of the waiver request from DOL effective for Program Year 2005 through June 30, 2007. The BoWD asked for an extension of the waiver in the State Plan on May 1, 2007. DOL has granted permission for LWIBs to continue their incumbent worker programs through 2009.

VI. POLICY

An LWIB may designate up to 10 percent of ***each*** of its adult, dislocated worker, and youth formula allocations to support incumbent worker training programs. The percentage of funds diverted from each program may be less than the maximum and may vary across programs. For example, an LWIB may choose to designate ten (10) percent of its adult, five (5) percent of its dislocated worker, and none of its youth formula allocations to support incumbent worker training programs.

Please note: The ten (10) percent maximum applies to each program allocation independently. No more than ten (10) percent of the annual allocation may be diverted from any single program. Also note that the maximum amount that may be diverted is based on the annual allocation; ***not*** total availability (i.e., total availability includes funds carried in from prior years). In the event of rescissions or other adjustments to the local allocation, local areas must not exceed the ten (10) percent limit of the adjusted allocation, and thus may need to adjust their incumbent worker designated amount.

A. Participation Requirements

Involvement in the waiver is open to any LWIB and is voluntary. To use the locally diverted funds for incumbent worker training, the following requirements must be met:

1. As cited below, the Workforce Investment Act Final Rule Section 665.220 authorizes the State to define who is to be considered an incumbent worker for the purpose of administering WIA-funded incumbent worker programs.

“States may establish policies and definitions to determine which workers, or groups of workers, are eligible for incumbent worker services under this subpart. An incumbent worker is an individual who is employed, but an incumbent worker does not necessarily have to meet the eligibility requirements for intensive and training services for employed adults and dislocated workers at 20 CFR 663.220(b) and 663.310 (WIA sec. 134(a)(3)(A)(iv)(I)).”

The State is delegating this authority to the local areas through a two-step process. First, local areas must cite in their local WIA plan the industry sectors to be targeted for incumbent worker services. Second, local areas must submit to DCEO project plans, as those plans are developed, that further refine the targeting by specifying which employers within the targeted industries are participating and which occupations are targeted for training.

The primary customers for incumbent worker training services are the targeted employers. Only the employees of these specific firms who are to receive training related to a targeted occupation are part of the “eligible group”. Therefore, all workers who receive incumbent worker training must be an incumbent worker as defined above (see Part IV, Definitions).

Note that by making this eligibility determination, the local area is only determining that an employee is within an “eligible group of workers”. That is, the worker must be: a) working in a targeted industry cited in the local plan (or working for an employer being provided incumbent worker training as part of an economic development incentive package regardless of industry); b) employed by a participating company or organization, as cited in a project plan; and c) scheduled to receive training related to a targeted occupation, also as cited in a project plan. It is important to note that all workers who meet these tests are in the eligible group of workers. It is a “group” or “class” designation. These workers do not have to meet the other individual WIA eligibility requirements for employed adults or dislocated workers in order to receive intensive and training services. These workers are not formally registered in WIA and do not count for federal performance standards.

2. Information on the participating employer(s) and incumbent workers will be collected and reported to DCEO as outlined in the reporting section of this policy guideline.
3. Additionally, LWIBs must be aware of, and continue to comply with, the following requirements:

- a. The current ten (10) percent limit on local administrative costs still applies. No additional amount shall be set aside for administrative costs associated with incumbent worker training activities.
- b. The requirement that at least 30 percent of youth funds be used to provide activities to out-of-school youth continues to apply to the total amount of the LWIB's formula allocations for youth.
- c. LWIBs are still subject to the reallocation policy as described in PY'01 WIA Policy Letter 01-26. These requirements include funds diverted for incumbent worker training.
- d. In the event of rescissions or other adjustments to the local allocation, local areas must not exceed the ten (10) percent limit of the adjusted allocation, and thus may need to adjust their incumbent worker designated amount.
- e. The prohibition against using WIA Title I funds to encourage business relocation, as described in the WIA Rule at 667.268 applies to incumbent worker training funds. If the relocation resulted in any employee losing his or her job at the original location, the 120-day rule set forth in PY'00 WIA Policy Letter 00-14, must be observed. In such cases, incumbent worker training services may not be provided until the company has operated at the new location for 120 days.
- f. LWIBs may divert their adult, dislocated worker, or youth formula allocations for incumbent worker training programs while the waiver is in effect.

B. Plan Modification

LWIB's choosing to divert up to ten (10) percent of their funds for incumbent worker training programs must analyze changing economic conditions and the demands of employers in their workforce areas to identify industry sectors. Based on these analyses, a request must be submitted to the DCEO Planning Unit, in the form of a plan modification. Requirements are outlined below:

1. Plan Components

- a. A narrative discussion of the industry sector(s) that will be targeted for incumbent worker training.
- b. Identification of any CSSI projects that will use this authority for incumbent worker training programs.

- c. The percentage and amounts (up to 10 percent) in the workforce area's adult, dislocated worker, and/or youth formula allocations that will be re-designated as incumbent worker training programs for use that is consistent with the activities described in the plan modification (**Attachment A**).
- d. Assurance that all WIA-required services will continue to be provided using the LWIBs' adult, dislocated worker, and youth formula allocations.
- e. Assurance that the LWIB will continue to meet its performance and expenditure benchmarks for adult, dislocated worker, and youth formula allocations.
- f. Assurance that any projects that are part of an economic development incentive package are in compliance with all federal and state policy governing these incentives or will be subject to a clawback provision.

2. Public Comment Period

- a. The minimum public comment requirements for plans and modifications are cited in WIA section 118 (c) and section 661.345 of the WIA Final Regulations, which state the local board must:
 - 1) Make copies of the proposed local plan available to the public (through such means as public hearings and local news media);
 - 2) Include an opportunity for comment by members of the Local Board and members of the public, including representatives of business and labor organizations;
 - 3) Provide at least a thirty (30) day period for comment, beginning on the date on which the proposed plan is made available, prior to its submission to the Governor; and
 - 4) Be consistent with the requirement, in WIA section 117(e), that the Local Board make information about the plan available to the public on a regular basis through open meetings.
- b. LWIBs may post their plans or modifications to their web sites but they must also be supplemented by another public medium, such as a newspaper, so that the broadest range of audience is given a chance to comment on the plan.

- c. The Local Board must submit with the modification any comments that express disagreement with the five-year plan. Submissions of one or more certificates of publication, as applicable, as evidence of this publicizing action are required.

3. Submission Instructions

- a. LWIBs, with CEO approval, must modify their five-year local job training plan in accordance with the instructions contained in this letter and previous planning instructions.
- b. Modifications must be submitted under a cover letter signed by the LWIB Chair and the CEO(s) indicating approval.
- c. Modifications may be submitted until the waiver authority ends.

Modifications must be submitted to:

Ms. Lora S. Dhom
Bureau of Workforce Development
Planning Unit
Illinois Department of Commerce and Economic Opportunity
620 East Adams, 5th Floor
Springfield, IL 62701-1615
lora.dhom@illinois.gov

C. Project Plans

Subsequent to the approval of the plan modification and prior to expending funds diverted for incumbent worker training, LWIBs must submit one or more project plans in accordance with the requirements presented below. Project plans may be submitted at any time during the authorized period of the waiver. Individual project plans are not subject to formal approval by DCEO and, once submitted, local areas may proceed with implementation. However, DCEO will review all project plans as described below. Any areas of concern resulting from such reviews will be communicated to the local area.

1. Project Plans

- a. A project plan must be developed utilizing **Attachment B** as a planning tool for an LWIB to implement incumbent worker training activities, as well as serve as the communication tool to inform DCEO about the

strategies being implemented locally for incumbent worker training programs.

- b. All project plans must be submitted to the DCEO, Bureau of Workforce Development in accordance with the instructions in **Attachment B**. Note that submittal of a project plan is not considered a formal plan modification. Submit project plans to the Planning Unit at the address above.

2. Evaluating Project Plans

When reviewing proposals the Planning Unit will consider the following criteria:

- a. **Benefits to Target Industries:** The employer (or the group of employers) to benefit from the training must be from one of the targeted industries identified in the five-year plan for the incumbent worker training program or the employer may be from any industry if the proposal is part of an incentive package designed to encourage the employer to create or retain jobs in the area.
- b. **Quality of the Training:** The training proposal must be adequately specified and job specific.
- c. **Benefits to Workers:** The training should also result in benefits to the workers such as: enhanced employability, job upgrades, increased wages, and/or increased job security.
- d. **Appropriateness of Costs:** The proposed costs must be judged reasonable in relation to the type of training and the number of workers to be trained. And, all proposed costs must meet State and Federal WIA cost related requirements and limitations.
- e. **Matching Costs:** Requirements for employer cost participation must be met.

D. Ongoing Planning

After submitting and receiving approval of a plan modification, LWIBs may continue to analyze the needs of their workforce areas and, if needed, add additional projects to address either CSSI projects or targeted local level occupations using incumbent worker training programs as outlined above.

A plan modification is needed when adding or changing a targeted industry sector, or to change the distribution of the incumbent worker training funds.

Another change that would require a plan modification would be the re-designation of the incumbent worker training programs back to formula allocations. LWIBs may re-designate incumbent worker training programs as formula allocations at any time prior to the grant end date. The funds will retain their original adult, dislocated worker, or youth identity.

E. Programmatic Reporting

Reporting on incumbent worker training programs will occur quarterly for each project identified in the approved CSSI grant or plan submitted pursuant to the requirements of this letter.

The quarterly reporting periods will be January through March, April through June, July through September, and October through December. Quarterly reports are to be completed and submitted to DCEO within 30 days from the end of each quarter.

Reporting will be done electronically using one, or a combination of, Microsoft Word, Excel, Access, and/or IWDS.

1. CSSI Projects

- a. Submit CSSI projects using CSSI funding for incumbent worker training through the CSSI project reporting structure.
- b. If using incumbent worker funding as CSSI match, follow the steps outlined in number 2 below.

2. Local Level Project Reporting

- a. Local Level Project Reporting will consist of a Quarterly Report (**Attachment C**), and an Incumbent Worker Tracking Summary (generated from IWDS).
- b. Submit the Quarterly Report (**Attachment C**) and Incumbent Worker Tracking Summary (generated from IWDS) to the **Planning Unit** at the address indicated in item 3.c.
- c. Employer data should be entered into IWDS using the existing format. An employer service episode must be added for Incumbent Worker Training for each employer.

F. Financial Reporting

Obligation and expenditure reporting for both CSSI and local level projects will be completed in the DCEO Grantee Reporting System (GRS) using the guidelines and instruction found in PY'01 WIA Policy Letter 01-31 Change 2, Reporting of Obligations and Re-allotment Under the Workforce Investment Act (WIA).

A supplemental cost category was added to the corresponding formula allocation contract amount in GRS that will match the amounts designated for incumbent worker training. The supplemental amounts are a subset of the currently reported cost categories for adult, dislocated worker, and youth formula allocations. If a portion of the youth funding stream is designated toward incumbent worker training, those costs may be divided between in school and out of school line items.

Additionally, grantees must report on a timely basis their accrued expenditures throughout the year and have until the last state work day of the following month to report the prior month's accrued expenditures. Table 351 & 352 in the GRS system may be updated on a monthly basis. However, this requires reconciling the obligations reported on a monthly basis, or once during the month of July for the prior program year.

G. Matching and Allowable Costs

1. Matching Requirements

Employers participating in the program are required to provide matching support (in-kind or direct financial support) for the costs of providing the training to incumbent workers. Do not add employer match to the cost of training when submitting project budgets (**Attachment B**).

The match paid by an employer or group of employers may include the amount of the wages paid by the employer(s) to a worker while the worker is attending a training program and may include other in-kind contributions.

All matching contributions must clearly relate to incumbent worker training. Costs must meet the requirements described in the 29 CFR 97.24, Matching and Cost Sharing.

a. For projects involving an individual employer, the match shall not be less than:

- 1) 10 percent of the costs for employers with 50 or fewer employees;

- 2) 25 percent of the costs for employers with more than 50 employees but fewer than 100 employees; and
 - 3) 50 percent of the costs for employers with 100 or more employees.
- b. For projects involving a group of employers, the percentage of the match must be determined using one of the following methodologies:
- 1) Based on the aggregate number of employees (i.e., the sum of all the employees) in the employer group;
 - 2) Prorated based on the size of the employers as described in “a” above (i.e., 50 or fewer employees, more than 50 employees but fewer than 100 employees, and employers with 100 or more employees). Below is an example to meet the group of employer match requirement:

Employer Name	Number of Employees In Company A	Share of Employees B	Employer Match (per G.1.a.) C	Prorated Match (B x C) D
Large Employer 1	350	47.3%	50%	23.6%
Large Employer 2	125	16.9%	50%	8.4%
Middlesize Employer 1	75	10.1%	25%	2.5%
Middlesize Employer 2	65	8.8%	25%	2.2%
Small Employer 1	45	6.1%	10%	0.6%
Small Employer 2	35	4.7%	10%	0.5%
Small Employer 3	25	3.4%	10%	0.3%
Small Employer 4	15	2.0%	10%	0.2%
Small Employer 5	5	0.7%	10%	0.1%
Total / Required Match	740	100.0%		38.5%

- 3) Based on the percentages cited in “a” above applied separately to each participating employer, based on each employer’s number of employees and the number of incumbent workers trained for the employer; or
- 4) Based on 50 percent of the costs of training.

2. Allowable Costs

Costs that are reasonable and necessary for the conduct of the training are allowable. The list below provides **examples** of costs that may be reimbursed through the grant or used as the matching contribution.

Cost Items

- Curriculum development
- Tuition and school fees
- Books
- Training materials and supplies
- Pre and post testing
- Vocational Counseling
- In-house (i.e. employee of the firm) instructor costs
- Vendor/contractor trainer costs
- Travel expenses of trainers and trainees
- Training facility costs (off-site)
- Training facility costs (on-site)
- Cost for use of firm's equipment during training
- Wages of trainees while in training (**Matching costs only**)
- Fringe benefits of trainees while in training (**Matching costs only**)
- Fees for technical or professional certifications
- Refresher courses for occupational certifications

Note: Trainee wages and fringe benefits while in training may be used to meet the employer's match requirement, but are not reimbursable costs to the WIA grant.

Also, although not prohibited, costs associated with supportive services are discouraged. Generally, since incumbent workers are employed, the need for supportive services underwritten with WIA funds is expected to be minimal.

VII. ACTION REQUIRED

LWIBs must ensure that appropriate staff are apprised of and comply with the requirements in this policy letter for the use of the 10% funds for incumbent worker training programs.

VIII. INQUIRIES

Inquiries should be directed to your Regional Program Representative.

IX. EFFECTIVE DATE

This policy is effective on July 1, 2007.

X. EXPIRATION DATE

This policy will remain in effect until amended or rescinded by the Bureau of Workforce Development.

Sincerely,

A handwritten signature in black ink, appearing to read 'Therese McMahon', written in a cursive style.

Therese McMahon, Deputy Director
Bureau of Workforce Development

TM:lj

Attachment(s): A – WIA Program Funding Form
B – Incumbent Worker Training Project Plan Form
C – Incumbent Worker Training Quarterly Report