



CWP Policy/Procedure Transmittal

Policy and Procedures Transmittal Number: 22-04

Effective Date: May 11, 2022

To: CWP Staff and Subrecipient Staff

From: Julie Watson, Compliance & Accountability Administrator

A handwritten signature in blue ink, appearing to read 'Julie Watson', is positioned to the right of the 'From:' field.

Issue Date: May 11, 2022

Subject: Incumbent Worker Training (IWT) Policy Revision

With this transmittal, CWP is issuing revised CWP's Incumbent Worker Training policies. The IWT policies are revised to further define allowable and unallowable costs. In addition to being attached to this transmittal, the IWT policy 2-66 and 2-66.1 for H-1B programs can be found in CWP's online Policy and Procedures Manual, Section 2 CWP's General Policies and Procedures at <https://capitalworkforce.org/policies/>.

Questions regarding CWP's IWT policy should be addressed to Dan Garewski, CWP's Special Programs & Employer Engagement Manager, at DGarewski@capitalworkforce.org. Questions regarding the CWP's IWT policy for the H-1B should be addressed to Wendy Garcia, H-1B Program Manager, at wgarcia@capitalworkforce.org.

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A. General

The following Incumbent Worker Training (IWT) policy and procedures apply universally to all CWP administered incumbent worker training. Individual programs may have additional IWT policies and procedures that are specific to that program. See the program sections of this manual for program-specific IWT policy and procedures.

Incumbent Worker Training is a type of work-based, employer-driven training for employees providing the skills that they need to either retain employment or to avert layoffs. IWT provides both employees and employers with the opportunity to build and maintain a quality workforce and increase both the workers' and employers' competitiveness. For purposes of this policy and procedures, the term "employer" represents any entity applying for and receiving IWT funds on behalf of an employer or group of employers.

IWT is designed to meet the special requirements of an employer or a group of employers for the purpose of acquiring training to:

1. Help avert potential layoffs of employees, or
2. Increase the skill levels of employees so they can be promoted within the company and create backfill opportunities. The training should, whenever possible, allow the trainee to gain industry-recognized training experience and ultimately lead to an increase in wages.

B. Policy

1. Eligibility

For employers to be eligible for IWT funds, the following criteria must be met:

- a. The training must:
 - i. Be 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; and/or
 - ii. Provide the skills and/or knowledge to improve the competitiveness of the employee(s) or both the employee(s) and employer.
- b. The employee(s) must:
 - i. Be employed;
 - ii. Meet the Fair Labor Standards Act requirements for an employee-employer relationship; and
 - iii. Have an established employment history with the employer of six (6) months or more (includes time as a temporary or contract worker); or
 - iv. Be a member of a cohort of employees, where the majority (more than 50%) of those employees trained do meet the six-month employment history requirement.
- c. The incumbent worker does not have to meet the eligibility requirements for WIOA-funded career and training services for adults and dislocated workers unless he/she is also enrolled as a participant in the WIOA Adult or Dislocated Worker Programs.

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2. Allowable Costs

Allowable costs include the cost of an external trainer/instructor, tuition, instruction, books, materials and exams.

3. Unallowable Costs

Unallowable costs include the wages and benefits of employees (including trainees and employees facilitating the training), travel expenses of the trainer or trainee, training facilities or equipment. Although non-reimbursable, these costs can be applied toward the employer's cost-sharing requirement.

4. Cost-Sharing Requirement

Employers are required to pay a share of the cost of providing training to their incumbent workers. Cost of the training may include but is not limited to instruction, books, materials and exams. The employer's share of the costs of training can be through cash payments, fairly evaluated in-kind contributions, or both. In-kind contributions are wages paid to the incumbent worker trainee while the worker attends training or wages paid to an in-house trainer while providing the training. The minimum amount of the employer's share depends on the size of the employer but may not be less than the following percentages based on employer size.

% of the Cost of IWT	Size of Employer Based on the Number of Employees
10%	≤ 50 employees (equal to or less than 50)
25%	51 through 100 employees
50%	> 100 employees (greater than 100)

In accordance with the contract provisions, CWP reimburses the employer for the CWP share of the cost of training upon the employer's submission of a complete and accurate invoice along with the IWT Report documenting the results of the training and any other required documentation.

5. Union Consideration

Funds provided for IWT must not be used to directly or indirectly assist, promote or deter union organizing. Funds provided for IWT may not be used to directly or indirectly aid in the filling of a job opening which is vacant because the former occupant is on strike, being locked out or involved in a work stoppage in the course of a labor dispute.

6. Prohibited Employers

CWP will not enter into a IWT contract with employers who are in violation of local, state or federal labor laws or who failed to meet their obligations under a previous IWT contract.

C. Procedures

1. Application

Employers who are interested in obtaining assistance funding IWT must submit an application to CWP providing detailed information regarding the proposed training, employees to be trained, cost

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sharing and intended outcomes for the employee and the employer. See Section 8 Forms of the CWP Policy and Procedures Manual for the CWP Application for Incumbent Worker Training form.

2. Determining Employer Eligibility

- a. CWP staff use the information from the application to determine if the employer(s) are eligible for IWT funds based on CWT IWT Policy. In evaluating whether the proposed training meets the CWP IWT eligibility criteria, CWP staff consider the following factors.
 - i. Characteristics of the employee(s)
 - a) Barriers to employment
 - b) Lack of skills and/or knowledge provided by the proposed training
 - ii. Relationship of the training to the competitiveness of the employee and employer
 - iii. Layoffs will be averted as a result of the training
 - iv. Employee advancement opportunities along with wage and benefits increase (pre and post-training earnings)
 - v. Number of employees participating in the training
 - vi. Existence of other training and advancement opportunities provided by the employer
 - vii. Credentials and skills gained as a result of the training
 - viii. CWP's larger industry sector and/or career pathway strategy
 - ix. Employer size

3. Employer Contract

Once the Application for Incumbent Worker Training Funds is approved by CWP, a contract between CWP and the employer must be executed prior to the start of the IWT. CWP staff discuss the contract provisions with the employer prior to contract execution to ensure agreement and compliance with contract provisions.

- a. Contract provisions for discussion with the employer:
 - i. The amount of funds CWP will provide for the training and related costs
 - ii. The employer's required cost-sharing portion of the training and how that employer will meet this requirement
 - iii. Number of employees to be trained
 - iv. Requirement that trainees must have an established work history with the employer¹
 - v. Agreement that CWP staff may collect registration information directly from trainees
 - vi. Anticipated outcome of the training
 - vii. Incumbent worker training contract provisions
 - viii. Financial and administrative contract provisions
 - ix. Contract specific terms
 - x. Position or job title of the trainees
 - xi. Number of hours of training per participant
 - xii. Beginning and end dates of the contract
 - xiii. Beginning and end dates of the training

¹ Work history includes time as a temporary or contract worker.

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- xiv. Reporting requirements
- xv. Invoicing procedures

- b. Components IWT contract:
 - i. A completed CWP Incumbent Worker Training (IWT) Contract template signed by the employer and CWP signatory
 - ii. Exhibit, The approved CWP Application for Incumbent Worker Training Funds
 - iii. Exhibit, Report Form
 - iv. Exhibit, CWP Protecting Personally Identifiable Information Policy (PII)
 - v. Additional exhibits deemed necessary by CWP

- 4. Reporting**
 - a. Employers are required to document and report to CWP the data elements contained on CWP Incumbent Worker Training (IWT) Report as required by the contract terms. The elements of the IWT Report include but are not limited to:
 - i. Employer's name,
 - ii. Title and type of training,
 - iii. Training provider,
 - iv. The following data elements applicable to each trainee: name, employment start date², training start date, job title, post training job title (if promoted), credential earned, and amount of post-training wage increase, and any other information required of the IWT funding sources.

- 5. Monitoring**

Whenever feasible, CWP staff monitor IWT to ensure that training is delivered as described in the contract. At minimum, CWP staff conducts at least one on-site visit during the IWT and documents participant attendance. The six-month work history requirement is monitored by requesting documentation of the employment start date for a random sample of trainees listed on the employer's IWT Report.

² Employee start date may include time as a temporary or contract worker.

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A. General

The following Incumbent Worker Training (IWT) policy and procedures apply to IWT activities funded by the USDOL, Employment and Training, One Workforce H-1B grant.

Incumbent Worker Training is a type of work-based, employer-driven training for employees who need training to upgrade their skills to secure full-time employment, advance in their careers, or retain their current employment in H-1B occupations and industries. IWT is developed in collaboration with the employer with which an individual is employed when they are determined eligible to participate in the grant. Employers are encouraged to backfill open positions that result from incumbent worker training with unemployed and underemployed individuals.

For purposes of this policy and procedures, the term “employer” represents any entity applying for and receiving IWT funds on behalf of an employer or group of employers and the term “employee” represents one or several employees.

B. Policy

1. Eligibility

For employers to be eligible for H-1B IWT funds, the employee/trainee must meet the following criteria:

The employee must:

- a. Be employed by the entity requesting IWT funds,
- b. Be at least 17 years of age,
- c. Not currently enrolled in secondary school, and
- d. Meet the Fair Labor Standards Act requirements for an employee-employer relationship.

2. Allowable Costs

IWT funds pay for the cost of training including the cost of an external trainer/instructor, tuition/instruction, books, exams, and other materials needed for the training. The Workforce Development Board (WDB) reimburses the employer for these expenses upon the employer’s submission of a complete and accurate invoice along with an IWT report documenting the results of the training and any other required documentation.

3. Unallowable Costs

IWT funds will not pay for costs include the wages and benefits of employees (including trainees and employees facilitating the training), travel expenses of the trainer or trainee, training facilities or equipment. When these IWT-related expenses occur, they are considered the employer’s share of the costs of IWT and are documented and reported to the WDB as leveraged/matched contributions. See section C.4 of this policy for reporting procedures.

4. Union Consideration

Funds provided for IWT must not be used to directly or indirectly assist, promote or deter union organizing. Funds provided for IWT may not be used to directly or indirectly aid in the filling of a job opening which is vacant because the former occupant is on strike, being locked out or involved in a work stoppage in the course of a labor dispute.

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5. Prohibited Employers

The WDB will not enter into an IWT contract with employers who are in violation of local, state or federal labor laws or who failed to meet their obligations under a previous contract.

C. Procedures

1. Application

Employers who are interested in obtaining assistance funding IWT must submit a prescribed IWT application to the WDB providing detailed information regarding the proposed training, employees to be trained, cost sharing, and intended outcomes for the employee and the employer.

2. Determining Eligibility of Training

WDB staff use the information from the application to determine if the employer's proposed training is eligible for H-1B funded IWT. In evaluating whether the proposed training meets the IWT eligibility criteria of the H-1B grant, WDB staff consider the following questions:

- a. Does the training meet the special requirements needed for the employer (or group of employers) to retain a skilled workforce or avert the need to lay off in an H-1B industry?
- b. Does the training provide the skills and/or knowledge in an H-1B occupation to improve the competitiveness of the employee or both the employee and employer?
- c. Will the training provide for employee advancement opportunities along with wage and benefits increase (pre and post-training earnings)?
- d. Does the employer provide other similar training and advancement opportunities?
- e. Will the employee gain a credential and/or skills as a result of the training?

3. Employer Contract

Once the application for Incumbent Worker training funds is approved by the WDB, a contract between the WDB and the employer must be executed prior to the start of the IWT. WDB staff discuss the contract provisions with the employer prior to contract execution to ensure agreement and compliance with contract provisions.

- a. Contract provisions for discussion with the employer:
 - i. Amount of funds that the WDB will provide for the training and related costs
 - ii. Employer's share of the IWT costs
 - iii. Number of employees to be trained
 - iv. Agreement that WDB staff may collect registration information directly from trainees
 - v. Anticipated outcome of the training
 - vi. Incumbent worker training contract provisions
 - vii. Financial and administrative contract provisions
 - viii. Contract specific terms
 - ix. Position or job title of the trainees
 - x. Number of hours of training per participant
 - xi. Beginning and end dates of the contract
 - xii. Beginning and end dates of the training
 - xiii. Reporting requirements
 - xiv. Invoicing procedures

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- b. Components IWT contract:
 - i. A completed Incumbent Worker Training (IWT) contract template signed by the employer and the WDB signatory
 - ii. An approved Application for Incumbent Worker Training Funds
 - iii. Report Form
 - iv. Protecting Personally Identifiable Information Policy (PII)
 - v. Additional exhibits deemed necessary by the WDB

4. Reporting

Employers are required to document and report to the WDB the data elements as required by the contract terms. The elements include but are not limited to:

- a. Employer's name
- b. Title and type of training
- c. Training provider
- d. Employer's share of the IWT costs
- e. The following data elements applicable to each trainee: name, employment start date¹, training start date, job title, post training job title (if promoted), credential earned, and amount of post-training wage increase, and any other information required by USDOL

5. Monitoring

Whenever feasible, WDB staff monitor IWT to ensure that training is delivered as described in the contract. At minimum, WDB staff conduct at least one on-site visit during the IWT and documents participant attendance.

¹ Employee start date may include time as a temporary or contract worker.