



## MONTGOMERY COUNTY WORKFORCE DEVELOPMENT BOARD, MONTCOWORKS WIOA INCUMBENT WORKER TRAINING POLICY

### PURPOSE

The purpose of this policy is to articulate how Incumbent Worker Training (IWT) funds are to be administered in Montgomery County under the Workforce Innovation and Opportunity Act (WIOA), and to provide guidelines to employers seeking Incumbent Worker Training for employees who require additional skills to retain employment or avoid layoffs.

### BACKGROUND

The Workforce Innovation and Opportunity Act (Public Law 113-128) is a 2014 law designed to help job seekers across employment, education, training, and support services succeed in the labor market and to match employers with the skilled workers they need to compete in the global economy. This policy applies to all Montgomery County Adult and Dislocated Worker participants who will participate in IWT as well as employers and/or training providers through which an IWT contract is established.

### REFERENCES

- WIOA (P.L. 113-128)
- 20 CFR §680.790
- Workforce System Guidance (WSG) No. 06-PA 2015, April 1, 2016 – Incumbent Worker Training Activities

### DEFINITIONS

**Adult** – an individual who is age 18 or older.<sup>1</sup>

**Disadvantaged Adult** – an adult who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of— (a) the poverty line; or (b) 70 percent of the lower living standard income level.<sup>2</sup>

**Dislocated Worker** – an individual who:

- (i) has been terminated or laid off, or who has received a notice of termination or layoff, from employment; (ii)(I) is eligible for or has exhausted entitlement to unemployment compensation; or (II) has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one-stop center referred to in section 121(e), attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; and (iii) is unlikely to return to a previous industry or occupation;
- (i) has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise; (ii) is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or (iii) for purposes of eligibility to receive services other than training services described in section 134(c)(3), career services described in section 134(c)(2)(A)(xii), or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close;

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<sup>1</sup> WIOA §3(2)

<sup>2</sup> WIOA §132(b)(1)



- C. was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters;
- D. is a displaced homemaker; or
- E. (i) is the spouse of a member of the Armed Forces on active duty (as defined in section 101(d)(1) of title 10, United States Code), and who has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of such member; or (ii) is the spouse of a member of the Armed Forces on active duty and who meets the criteria described in paragraph (16)(B).<sup>3</sup>

**In-Demand Industry Sector or Occupation** – The term “in-demand industry sector or occupation” means— (i) an industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the State, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors; or (ii) an occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the State, regional, or local economy, as appropriate.<sup>4</sup>

**Incumbent Worker** – a worker who is (a) employed, (b) meets the Fair Labor Standards Act requirements for an employer-employee relationship, and (c) has an established employment history with the employer for six months or more.<sup>5</sup>

**Incumbent Worker Training** – training that is, (a) 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, and (b) conducted with a commitment by the employer to retain or avert the layoffs of the incumbent worker(s) trained.<sup>6</sup>

## **PARTICIPANT ELIGIBILITY REQUIREMENTS**

IWT will be issued to eligible dislocated workers and economically disadvantaged adults as defined under WIOA.

## **EMPLOYER ELIGIBILITY REQUIREMENTS**

MontcoWorks will consider the following factors when determining the eligibility of employers to receive IWT funds:

- The strategy of the local board in fulfilling the vision and goals established for the local area in the local plan
- The characteristics of the incumbent workers to be trained, such as the extent to which they historically represent individuals with barriers to employment and how they would benefit from a skills gain that results in retention or advancement
- The quality of training, such as industry-recognized credentials and advancement opportunities
- The number of participants the employer plans to train or retrain
- The wage and benefit levels of participants (before and after training)
- The occupation(s) for which IWT is being provided must be in an in-demand industry sector or occupation
- Employer’s industry status:

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<sup>3</sup> WIOA §3(15)

<sup>4</sup> WIOA §3(23)

<sup>5</sup> WSG No. 06-PY2015, April 1, 2016

<sup>6</sup> 20 CFR §680.790



- In-demand industry; or
- Stable industry;
- Declining industry with compelling reasons, such as evidence of long-term viability of the employer, to justify investment in IWT
- Have not laid off workers within the last 120 days
- Have not relocated to Pennsylvania from another state within the last 120 days
- Be current in unemployment insurance premiums and workers' compensation taxes, penalties and/or interest (including related payment plans)<sup>7</sup>

MontcoWorks shall document the factors that were considered in approving an IWT project with an employer.

### **GENERAL WIOA IWT REQUIREMENTS**

Incumbent Worker Training may be available to employers seeking to train participants for multiple positions.

To contract with MontcoWorks, an employer must meet the following requirements:

- Offer IWT that will not influence the promotion of or displace any currently employed worker or cause a reduction in their hours
- Be providing full-time, non-seasonal work of 32 to 40 hours per week
- Not have previously exhibited a pattern of failing to provide IWT participants with continued long-term employment with wages, benefits, and working conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work
- Adhere to ADA compliance
- Cooperate with WIOA mandated monitoring by MontcoWorks staff and adhere to all other applicable local, state, and federal rules and regulations
- Provide documentation on wage and benefit levels of incumbent workers trained, pre- and post-training
- IWT funds may not be used to pay for the wages of workers being trained. Funds provided under IWT services may be used to cover the cost of providing the training, including the cost of developing the training or fees for the training program or provider.
- Wages paid to the participant while in training can be included as part of the employer share and can be provided as cash or in-kind that is fairly evaluated.

Employers who seek funding for Incumbent Worker Training must enter into a contract with MontcoWorks that details the above requirements and determines invoicing processes.

### **WIOA IWT FUNDING**

MontcoWorks shall not reserve or use more than 20 percent of the overall adult and dislocated worker funds for IWT.<sup>8</sup> Funding preference will be made for IWT that results in a promotion or pay increase and/or averts a potential layoff or termination.

Employers must share the cost of the IWT based on the size of their workforce. Employers will be responsible for:

- At least 20% of the cost for employers with 50 or fewer employees
- At least 25% of the cost for employers with 51 to 100 employees
- At least 50% of the cost for employers with more than 100 employees

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<sup>7</sup> WSG No. 06-PA 2015, April 1, 2016 – Incumbent Worker Training Activities

<sup>8</sup> WSG No. 06-PA 2015, April 1, 2016 – Incumbent Worker Training Activities



The employer size is defined as the number of employees currently employed at the local operation where the incumbent worker training placements will be made. Employer size is determined by the number of employees at the time of the execution of the incumbent worker training contract. This applies to all employers, including employers with seasonal or intermittent employee size fluctuations.<sup>9</sup>

Official payroll records documenting the worker's hours and wages must be utilized to determine the amount of the employer's share of cost.<sup>10</sup>

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<sup>9</sup> WSG No. 06-PA 2015, April 1, 2016 – Incumbent Worker Training Activities

<sup>10</sup> WSG No. 06-PA 2015, April 1, 2016 – Incumbent Worker Training Activities