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**Western Arkansas Workforce Development Area  
Policies and Procedures**

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<b>TITLE</b>	Incumbent Worker Training
<b>NUMBER</b>	P0004-20
<b>TYPE</b>	Policy – Programmatic
<b>APPROVING AUTHORITY</b>	Western Arkansas Workforce Development Board
<b>EFFECTIVE DATE</b>	6-9-2020
<b>NEW/REPLACED</b>	New

**Policy**

1. References for this policy include: Workforce Innovation and Opportunity Act Sections 3(44), 134(c)(3), and (d)(4) and 181(d); 20 CFR 680.530; 20 CFR 680.780-820; 20 CFR 677.150; 20 CFR 683.260; TEGL 10-16 and 19-16; and State policy WIOA I-B-3.6.
2. Incumbent Worker training provides both employees and employers the opportunity to build and maintain a quality workforce.
3. Incumbent Worker training can be used to help avert potential layoffs of employees, or to increase the skill levels of employees so they can be promoted within the company and create backfill opportunities for the employers.
4. The Workforce Innovation and Opportunity Act allows the Western Arkansas Workforce Development Board to reserve up to twenty (20) percent of Western Arkansas’s combined Adult and Dislocated Worker Title I funds to pay for Incumbent Worker training strategies.
5. These training strategies provide a number of positive outcomes to both business and employee:
  - a. Improve alignment of existing workers’ skills with evolving job requirements.
  - b. Provide participants with access to new career opportunities within a business or industry.
  - c. Encourage worker retention through the promotion of up-to-date skills training.
  - d. Increase the wages of incumbent participants.
  - e. Create new opportunities for entry-level workers by providing opportunities to promote existing workforce.
  - f. Supports and enhances local and regional economic development efforts targeted for in-demand industries, and industry sectors identified by the Western Arkansas Workforce Development Board.
6. Business eligibility criteria for participation:
  - a. Western Arkansas companies that operate under the provision of Arkansas law with a permanent Western Arkansas location.
  - b. Business must comply with the requirements of Fair Labor Standards Act (FLSA) or the state minimum wage law; whichever is greater.
  - c. Businesses with a minimum of five employees and a physical work location outside of a personal residence.
  - d. Priority is given to businesses with fifty (50) employees or less that are in-demand industries identified annually by the Western Arkansas Workforce Development Board.

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- e. Business must attest, in writing that it is not on the Federal debarred list and is a business in good standing with the State of Arkansas.
- 7. Training participant eligibility:
  - a. The participant has an established employment history with the employer for six months unless the training is being given to a cohort of employees in which, not every must have been an employee for at least 6 months, but the majority of those being trained must have been employed for at least 6 months and:
  - b. Receives a W-2 as opposed to a 1099, is not a contractor or vendor for the business and is a regular employee, not a temporary worker.
  - c. The business pays unemployment insurance and workers' compensation premiums on the individual's behalf.
  - d. The work performed is considered to be integral to the business.
  - e. An incumbent worker does not have to meet Workforce Innovation and Opportunity Act Adult or Dislocated Worker eligibility requirements.
  - f. In order to enroll into the Arkansas Job Links an Incumbent Worker must provide sufficient documentation of age, citizenships, social security number, and selective service status (if appropriate).
- 8. Training requirements:
  - a. Incumbent Worker Training must increase the occupational skills level of existing employees.
  - b. All of the following requirements are applicable:
    - i. The proposed training project and outcomes must be provided for approval prior to training.
    - ii. Training must be aligned with the company's strategic goals and objectives.
    - iii. Needs and costs must be reasonable, allowable, and clearly related to the project as described in the training plan.
    - iv. The maximum amount of Incumbent Worker Training paid through WIOA funds per trainee is \$4,000.
    - v. The Western Arkansas Director of Workforce Development may provide a waiver to provide additional support beyond the \$4,000 based on factors that may include employer size, trainee barriers, availability of funding and other applicable factors.
    - vi. If a waiver is approved, documentation must be provided in the client file and in the case notes and on the Individual Employment Plan.
  - c. Additionally, a minimum of one of the following must be met:
    - i. Avert layoffs by increasing skills levels of employees leading company to become more competitive.
    - ii. Result in a promotion and wage gain within the company.
    - iii. Create job openings for new hires.
    - iv. Result in the employee's acquisition of an industry recognized certification or credential; or,
    - v. Yield employees' transition from part-time to full-time employment within the company.
- 9. Fiscal and administrative requirements:

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- a. To receive reimbursement for training costs, participating businesses must provide the Western Arkansas Planning & Development District with the following documentation no later than thirty (30) days after the training completion date:
    - i. Proof of successful completion of the approved training.
    - ii. Proof of payment by the employer for the approved training costs; and,
    - iii. Detailed invoice on company letterhead, or invoice template, indicating total costs and reimbursable costs.
    - iv. Proof may include but not limited to sign-in sheets, time sheets indicating the training, and some form pay records.
  - b. Businesses shall be reimbursed as follows:
    - i. For businesses with fewer than fifty (50) employees, up to ninety (90) percent of the approved training costs.
    - ii. For businesses with fifty-one (51) through one hundred (100) employees, up to seventy-five (75) percent of the approved training costs.
    - iii. For businesses with more than one hundred (100) employees, up to fifty (50) percent of the approved training costs.
    - iv. Costs of training may include the amount of wages paid by the employer to a worker while attending the incumbent worker training.
    - v. The employer payments can be cash payments, fairly evaluated in-kind contributions or both and must be reported quarterly on the ETA-9130 financial report.
10. Project selection and maintenance
- a. Project applications must be submitted and approved prior to the start date of training.
  - b. The project application must include:
    - i. Business Eligibility for Training Funding form.
    - ii. Proof of "Good Standing" with the State of Arkansas.
    - iii. W-9.
    - iv. Self-Attestation Statement that the applying company is not on the Federal Debarred List.
  - c. No reimbursement of training funds will be granted without prior application, approval, and authorization.
  - d. Incumbent Worker Training is a reimbursement so the company must provide proof of payment for training.
  - e. Western Arkansas's Board staff executes contracts with successful business applicants, provides oversight of the training projects, and tracks participant information in the Arkansas Job Links.
  - f. Business shall take necessary steps to provide for the training of Incumbent Workers in specific skills that result in the employee obtaining an industry recognized certification, credential, opportunity for wage increase, advancement, or retention due to adverse economic or environmental circumstances.
  - g. A business must explain how the training provided will support lay-off aversion or retention and growth of their workforce.
  - h. All Incumbent Worker Training recipients must complete a Workforce Innovation and Opportunity Act Arkansas Job Links application.

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- i. Payment is by reimbursement only after submittal to Western Arkansas's business services provider proof of training attendance, successful completion of training, and credential/certification/wage increase/advancement/retention documentation.
11. The United States Department of Labor has placed the following restrictions on Incumbent Worker funds:
- a. Employers who participate in an incumbent worker training project must agree to comply with the requirements of 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;
  - b. A participant in an Incumbent Worker Training project may not displace any currently employed employee as of the date of project participation. Displacement includes reduction in hours, wages, or benefits, either in whole or in part.
  - c. An Incumbent Worker Training project cannot impair 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.
  - d. A participant in a training project shall not be employed if:
    - i. Any other individual is on layoff from the same or equivalent job.
    - ii. The employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the resulting vacancy with the participant; or
    - iii. The job created infringes upon the promotional opportunities of currently employed individuals (as of the date of participation).
  - e. Businesses participating in a training project must maintain health and safety standards and working conditions for participants as the business does for non-participants.
  - f. No funds may be used to assist, promote, or deter union organization; and
  - g. Funds may not be used to entice a business to relocate to Crawford, Franklin, Logan, Polk, Scott, or Sebastian Counties. Incumbent Worker funds are intended to assist existing businesses within these counties. A business must be established in Western Arkansas for a minimum of 120 days prior to beginning an Incumbent Worker Training project.

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Approval Signature: \_\_\_\_\_

Cathy Nesbit, Board Chair