

Incumbent Worker Training Contract

Development Agency Agreement #: 01-17-21-221 Incumbent Worker Training Agreement # _____

1. This Incumbent Worker Training (IWT) AGREEMENT is between the Northwest Georgia Workforce Development Board's (WDB) Work-based Training Development Agency listed below, and hereinafter referred to as the DEVELOPMENT AGENCY, the Employer listed below, hereinafter referred to as the EMPLOYER, and the Northwest Georgia Regional Commission, hereinafter referred to as NWGRC. The parties agree that the EMPLOYER shall provide all training in accordance with the provisions and terms in this AGREEMENT. The DEVELOPMENT AGENCY shall oversee and manage the provision of training under this AGREEMENT. NWGRC shall provide an invoice form to the EMPLOYER and shall make a payment to the EMPLOYER for satisfactory performance in accordance with the reimbursement computation and terms and conditions included herein. This AGREEMENT includes Incumbent Worker Training Terms and Conditions (Item #9) and an IW Training Outline (Item #10) which follow. Jurisdiction over this AGREEMENT shall reside in Floyd County, Georgia. The parties agree to all the terms in this IW Training AGREEMENT by affixing their signatures below.

2. EMPLOYER

Company: _____
 Address: _____
 City/State/Zip: _____
 Phone #: _____
 FAX #: _____
 Email: _____
 Number of Employees: _____

Signature of Authorized Official *Date*

 Typed Name/Title of Authorized Official:

 Name/Title of Person(s) Authorized
 to sign WIOA invoices:

3. DEVELOPMENT AGENCY

Agency/Organization: Georgia Department of Labor
 Address: 200 West Villanow Street
 City/State/Zip: LaFayette, GA 30728
 Phone #: 706-638-5522
 FAX #: 706-638-5529
 Email: beth.kelley@gdol.ga.gov

Signature of IWT Developer *Date*

 Typed Name/Title of IWT Developer:

Beth Kelley, Project Coordinator
 Agency Contact Person: Lisa Adkisson, WBT
 Coordinator

4. WIOA ADMINISTRATIVE ENTITY

Northwest Georgia Regional Commission
 PO Box 1798
 Rome, GA 30162-1798
 Phone: (706) 295-6485

Lloyd Frasier, Executive Director *Date*

All applicable signatures and dates of signatures must be in the same handwriting as person to whom signature applies

5. **Purpose:** Under the terms and conditions of this AGREEMENT, the EMPLOYER agrees to provide training to incumbent employees necessary to improve the skills of employees, increase the competitiveness of the EMPLOYER or to retain or avert layoffs of the incumbent workers trained.

6. **Period of Performance:** This AGREEMENT shall be effective as of _____ and shall remain in effect until _____, or until all approved training applications initiated under this AGREEMENT are completed, whichever is first. Should additional time be needed to complete the training, an extension must be approved through a contract modification prior to the end date listed above.
7. **Funding:** Funding for the services rendered as part of this AGREEMENT is provided by funds from the Workforce Innovation and Opportunity Act of 2014, as amended (herein referred to as WIOA) through a grant agreement between the state grantor and NWGRC. EMPLOYER agrees that in the event that funds for carrying out the functions to which the AGREEMENT relates are suspended or terminated in whole or in part, this AGREEMENT shall be terminated immediately without further obligation of the DEVELOPMENT AGENCY or NWGRC, except that NWGRC shall reimburse EMPLOYER for its previously incurred costs.
8. **Compensation:** Payments to EMPLOYER shall be reimbursements made upon receipt of an invoice from the EMPLOYER to NWGRC which shall be submitted by the EMPLOYER to NWGRC on a monthly basis during the term of this AGREEMENT. The invoice shall request reimbursement for allowable expenses incurred during the previous month. Invoices shall only include allowable costs incurred by the EMPLOYER during the invoice period. NWGRC reserves the right to withhold reimbursement of any costs reflected on invoices submitted by the EMPLOYER if, after its reviews, it determines that said costs are not allowable. Invoices free of errors and/or omissions shall be processed within 30 days after receipt by NWGRC.

The EMPLOYER must comply with the approved IWT Application requirements and budget. Failure to comply may result in repayment of all IWT reimbursements and termination of this AGREEMENT.

The total amount to be paid to the EMPLOYER under terms of this AGREEMENT shall not exceed \$_____ per participant trainee or \$_____ in total. **All payments are contingent on the availability of funding.**

9. **Terms and Conditions:** The parties to this AGREEMENT hereby agree to the following terms and conditions:
- A. **The DEVELOPMENT AGENCY** will determine the eligibility of an employer for IWT taking into consideration the following:
1. The number of employees participating in the training;
 2. The wages and benefits to the employees before the training and the wages and benefits to the employees after the training;
 3. The existence of other training opportunities provided by the employer;
 4. The employer's length of operation in the area which must be a minimum of 6 months;
 5. The characteristics of the participants;
 6. The ability of the training to increase the competitiveness of the participant and the employer and/or avert a layoff.

The DEVELOPMENT AGENCY will provide technical assistance to the EMPLOYER throughout this AGREEMENT.

- B. **The EMPLOYER** will adhere to the following:
1. Adhere to all conditions set forth in **ATTACHMENT A, Incumbent Worker Training Application**, and subsequent addendums which are labeled **ADDENDUM A, Incumbent Working Training Budget, ADDENDUM B, Incumbent Worker Trainee Roster** and **ADDENDUM C, Trainee Skills Gap/Training Plan** attached hereto and made a part hereof.
 2. Adhere to the WIOA requirements for paying the non-Federal share of the cost of providing the training. The non-Federal share provided by an EMPLOYER may include the amount of the wages paid by the EMPLOYER to a worker while the worker is attending training, equipment purchased for training, curriculum development

costs, travel and lodging costs, etc. The EMPLOYER may provide the share in cash or in kind, fairly evaluated. Official payroll records, time and attendance sheets, invoices for equipment purchases, etc. must be utilized to determine the amount of the EMPLOYER's share of cost.

The EMPLOYER non-Federal share is dependent on the size of the EMPLOYER and shall not be less than:

10 percent of the cost, for EMPLOYERs with not more than 50 employees;

25 percent of the cost, for EMPLOYERs with more than 50 employees but not more than 100 employees;
and

50 percent of the cost, for EMPLOYERs with more than 100 employees

3. Provide documentation that indicates EMPLOYER size. EMPLOYER size is based on 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.
4. Hold the Northwest Georgia Workforce Development Board, the Northwest Georgia Regional Commission and/or the Georgia Department of Labor, their officers, agents and employees harmless from any and all claims or any kind, including, but not limited to, costs and expenses, on account of any suits or damages, including death, sickness or injury to persons or property arising from or connected with the program described herein and/or the operations of the EMPLOYER, its agents, representatives or employees.
5. Comply with the requirements for debarment and suspension in accordance with Executive Order 12549 and 12689, 2 CFR 180 and the requirements for a drug-free workplace codified at 29 CFR Part 98.
6. Comply with all applicable Federal, State and local laws including but not limited to: The Workforce Innovation and Opportunity Act of 2014 and its implementing regulations.
7. Maintain records for the IWT trainees and make copies available including: (1) documentation of employment history to verify the six month employment history requirement (2) accurate daily time and attendance records showing the date of each day in which IWT occurs and the hours of IWT per day and (3) documentation of EMPLOYER match including payroll records showing gross/net wages paid during the training hours. The EMPLOYER will retain all records pertinent to this Agreement for a period of six years from the end of the program year in which the Agreement ends. The aforementioned records will be retained beyond the six years if any litigation or audit is begun or if a claim is instituted involving the agreements covered by the records. EMPLOYER agrees to provide copies of the daily time and attendance records, payroll documentation, and proof of unsubsidized employment within 30 days of the end of the month in which IWT occurs. Failure to provide the required documentation may result in forfeiture of the payment to the EMPLOYER.
8. Comply with DEVELOPMENT AGENCY, the ADMINISTRATIVE ENTITY, and/or authorized local, State or Federal representatives' monitoring, audit and review of the progress of training and inspection and/or copy of any records, books, papers, and documents which relate to this Agreement for compliance with the terms of this Agreement. Should any findings arise that warrant an audit, the ADMINISTRATIVE ENTITY may employ an independent auditor to examine the EMPLOYER's records at the expense of the EMPLOYER. Such inspection may take place with or without notice at any time during normal EMPLOYER hours wherever the records are maintained; provided, if the EMPLOYER maintains or relocates any or all of the records outside the county of employment or service provision, it shall make them available, at its expense, either at some reasonable location in the county of employment or service provision, upon reasonable demand and notice. The EMPLOYER will be responsible for resolution of findings disclosed within the audit. The EMPLOYER will reimburse the ADMINISTRATIVE ENTITY for all unresolved audit exceptions associated with this Agreement. Failure to reimburse the ADMINISTRATIVE ENTITY for unresolved audit exceptions will result in making the EMPLOYER ineligible for future consideration for WIOA funding. _____ **(EMPLOYER's Initials)**.
9. All disputes shall be resolved informally between the IWT worker, the EMPLOYER and the DEVELOPMENT AGENCY. If resolution does not occur to the satisfaction of any party, the first step is to use existing grievance procedures, if any, established by the EMPLOYER to resolve disputes with employees. If the EMPLOYER has

no internal grievance procedures or if the dispute remains unresolved, the parties agree to participate in and be bound by determinations resulting from the NWGRC's grievance, complaint, and disallowed cost resolution procedures. Indicate whether the EMPLOYER will use the company's personnel procedures or the NGRC's Grievance Procedures to handle grievances pertaining to the participant employee's terms and conditions of employment: The company's personnel procedures will be used: _____ **(EMPLOYER's Initials)** OR NWGRC's grievance procedures will be used: _____ **(EMPLOYER's Initials)**.

10. Participate in any follow-up efforts conducted by the ADMINISTRATIVE ENTITY or its authorized representative to evaluate IWT effectiveness.

C. **EMPLOYER Assurances:** The EMPLOYER further assures and certifies to adhere to the following provisions:

1. 20 CFR 680.790 specifies that the training be conducted with a commitment by the EMPLOYER to retain or avert the layoffs of the incumbent workers trained.
2. WIOA Section 134 (d) and 20 CFR Section 680.820 specifies that EMPLOYERS participating in IWT are required to pay the non-Federal share of the cost of providing training to incumbent workers. The amount of non-Federal share depends upon factors such as the number of employees participating in the training, the wage and benefit levels of the employees (at the beginning and anticipated upon completion of training), the relationship of the training to the competitiveness of the EMPLOYER and employees and the availability of other EMPLOYER provided training and advancement opportunities. EMPLOYER non-Federal share of IWT is specified in **ADDENDUM A, IWT Budget**.
3. 20 CFR Section 680.830 specifies that funds provided to EMPLOYERS for incumbent worker training must not be used to directly or indirectly assist, promote or deter union organizing.
4. 20 CFR Section 680.840 specifies that WIOA funds may not be used to directly or indirectly aid in filling of a job opening which is vacant because the former occupant is on strike, or is being locked out in the course of a labor dispute, or the filling is otherwise an issue in a labor dispute involving a work stoppage.
5. 20 CFR Section 683.260 specifies that WIOA funds must not be used for incumbent worker training for employees of any EMPLOYER or part of an EMPLOYER that has relocated from any location in the US until the company has operated at that location for 120 days, if the relocation has resulted in any employee losing their job at the original location.
6. 20 CFR Section 683.270 specifies that a participant in a WIOA program activity must not displace (including a partial displacement such as a reduction in the hours of non-overtime work, wages of employment benefits) any currently employed employee (as of the date of the participation).
7. 20 CFR Section 683.270 specifies that a WIOA program or activity must not impair existing contracts for services or collective bargaining agreements. When the program or activity would be inconsistent with a collective bargaining agreement, the labor organization and EMPLOYER must provide written concurrence before the activity begins.
8. 20 CFR Section 683.270 also specifies that a participant may not be employed in or assigned to a job if: (1) any other individual is on layoff from the same of any substantially equivalent job; (2) the EMPLOYER has terminated the employment of any regular, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy created with the WIOA participant; (3) the job is created in a promotional line that infringes in any way on the promotional opportunities of currently employed workers as of the date of the participation.
9. 20 CFR Section 683.275 specifies that individuals employed in activities under WIOA must be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same EMPLOYER and who have similar training, experience and skills.

10. 20 CFR Section 683.275 specifies that individuals employed in programs and activities under WIOA must be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.
11. 20 CFR Section 683.280 specifies that health and safety standards established under federal and State law otherwise applicable to working conditions of employees are equally applicable to working conditions of participants engaged in programs and services under WIOA. To the extent that a State workers' compensation law applies, workers' compensation must be provided to participants in program and activities under WIOA on the same basis as the compensation is provided to other individuals in the State in similar employment. Information on how to comply with Georgia law is available at <http://sbwc.georgia.gov>.
12. WIOA Section 134 (d) states that EMPLOYERS participating in IWT shall be required to pay for the non-Federal share of the cost of providing the training to incumbent workers of the EMPLOYERS. The LWDBs shall establish the non-Federal share of such cost (taking into consideration such other factors as the number of employees participating in the training, the wage and benefit levels of the employees (at the beginning and anticipated upon completion of the training), the relationship of the training to the competitiveness of the EMPLOYER and employees, and the availability of other EMPLOYER-provided training and advancement opportunities.
13. WIOA Section 181 (b) (1) specifies that no WIOA funds shall be used to pay the wages of incumbent employees during their participation in economic development activities provided through a statewide workforce development system.
14. WIOA Section 188 specifies that no individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under or denied employment in the administration of or in connection with any such program or activity because of race, color, religion, sex (as otherwise permitted under Title IX of the Education Amendments of 1972), national origin, age, disability or political affiliation or belief or solely because of the status of the individual as a participant in a program or activity receiving WIOA funds.
15. WIOA Section 188 specifies that no participants shall be employed to carry out the construction, operation or maintenance of any part of a facility that is used or to be used for sectarian instruction or as a place for religious worship with the exception of maintenance of facilities that are not primarily used for instruction or worship and are operated by organizations providing services to WIOA participants.
16. 29 CFR 38.10 (d) (e) (f). As provided in 20 CFR [§38.3\(b\)](#), [29 CFR part 32](#), subparts B and C and appendix A, which implement the requirements of Section 504 pertaining to employment practices and employment-related training, program accessibility, and reasonable accommodation, have been incorporated by reference. EMPLOYERS, employment agencies, or other entities covered by Titles I and II of the ADA should be aware of obligations imposed by those titles. See [29 CFR part 1630](#) and [28 CFR part 35](#). Similarly, recipients that are also EMPLOYERS covered by the anti-discrimination provision of the Immigration and Nationality Act should be aware of the obligations imposed by that provision. See [8 U.S.C. 1324b](#).
17. WIOA Section 194 (5) No person or organization may charge an individual a fee for the placement or referral of the individual in or to a workforce investment activity under this title.
18. WIOA Section 194 (13) Services, facilities or equipment funded under WIOA may be used, as appropriate, on a fee- for-service basis, by EMPLOYERS in a local area in order to provide employment and training activities to incumbent workers – (A) when such services, facilities or equipment are not in use for the provision of services for eligible participants under this title; and (B) if such use for incumbent workers would not have an adverse effect on the provision of services to eligible participants under this title; and (C) if the income derived from such fees is used to carry out the programs authorized under this title.
19. 2 CFR 200. No individual in a decision making capacity will engage in any activity, including the administration of the IWT contract supported by WIOA funds, if a conflict of interest, real or apparent, is present. A conflict of interest may arise in the event that an employee under this contract is an immediate family member (or partner) of an individual engaged in a decision making capacity with the LWDA, the LWDB, the EMPLOYER or an organization that has a financial or other interest in the firm or organization selected for the contract. Immediate family is defined as husband, wife, son, son-in-law, daughter, daughter-in-law, mother, mother-in-law, father, father-in-law, brother, brother-in-law, sister, sister-in-law, aunt, uncle, niece, nephew, stepparent, stepchild,

grandparents, grandchild, half-brother, half-sister, first cousin or individual residing in the same household. In the event of a potential conflict of interest, the EMPLOYER will notify the Northwest Georgia Regional Commission in writing. The EMPLOYER shall agree by signing the Conflict of Interest Statement marked **ATTACHMENT B**;

20. The EMPLOYER must meet the provisions of the Georgia Security and Immigration Compliance Act (GSICA) by signing the affidavit marked **ATTACHMENT C and C1**, attached hereto and made a part hereof;

D. The ADMINISTRATIVE ENTITY will provide the following functions:

1. Reimburse necessary, reasonable and allowable IWT costs in accordance with **ADDENDUM A, IWT BUDGET** and as specified in **V. Compensation** above.
2. Conduct regular oversight and monitoring of its WIOA activities and those of its subcontractors in order to:
 - a. Determine WIOA allowable expenditures;
 - b. Determine compliance with provisions of the WIOA and WIOA regulations and other applicable laws and regulations;
 - c. Provide technical assistance to subcontractors as necessary and appropriate
 - d. Evaluate the effectiveness of training.

E. Modifications/Amendments

This contract may be modified only by execution of a written amendment signed by all parties. This Agreement may be modified at any time prior to the last date of the Agreement performance. No backdated or retroactive modifications are allowable. Any modifications must be made by execution of a written, signed modification. If the training plan, the total training hours, the terms of the Agreement or the work location changes, the Agreement must be promptly modified. The EMPLOYER must submit any request for modification in writing at least 10 days before the desired effective date of the modification. _____ **(EMPLOYER's Initials)**.

F. Termination

Either the EMPLOYER or the ADMINISTRATIVE ENTITY may terminate this contract for any reason by providing the other party with a 30-day written notice. Notice must be posted by certified mail, return receipt requested.

If through any cause, the EMPLOYER shall fail to fulfill its obligations under this contract, or if the EMPLOYER shall violate any of the covenants, representations or stipulations of this contract, the ADMINISTRATIVE ENTITY shall have the right to immediately terminate the contract by giving written notice to the EMPLOYER of such termination. The EMPLOYER shall be entitled to receive just and equitable compensation for allowable costs incurred in the performance of its duties under this contract until termination.

The ADMINISTRATIVE ENTITY shall promptly notify the EMPLOYER in writing of the determination and reasons for the termination, together with the effective date, such notice must be posted by certified mail, return receipt requested. Notice of termination may specify a later date, but provision of a later date shall not relieve the EMPLOYER of ultimate liability for any funds later determined to be unallowable.

10. **Training Outline** (Specified based on training content)

EMPLOYER:	OCCUPATION:	SVP:		
TRAINING OUTLINE:				
COMPETENCIES TO BE LEARNED AS A RESULT OF INCUMBENT WORKER TRAINING ACTIVITIES	*TRAINING METHOD	*MEASUREMENT METHOD	EVALUATION (**RATE 0-3)	
			PRE	POST
*TRAINING AND/OR MEASUREMENT METHODS (LIST ITEM NUMBER OF ALL THAT APPLY): 1- DEMONSTRATION 2 – OBSERVATION 3 - VERBAL INSTRUCTIONS 4 - WRITTEN INSTRUCTIONS 5 - VERBAL TEST 6 - WRITTEN TEST				
**RATING SCALE 0 - CAN DO NO PARTS OF THE TASK; TRAINING NEEDED 1 - CAN DO ONLY SIMPLE PARTS OF THE TASK (50% proficiency or less) 2 - CAN DO MOST OF THE TASK (51% to 80% proficiency) 3 - CAN DO ALL PARTS OF THE TASK, NO TRAINING IS NEEDED				

ATTACHMENT A
(Application for IW Training as submitted for funding)

ADDENDUM A INCUMBENT WORKER TRAINING BUDGET

Employer:

Match Percentage:

Category	IWT Funds	Employer Match
Training Registration		
Manuals/Textbooks		
Certification Expenses		
Materials/Supplies		
Training Equipment Purchase	X	
Trainee Wages	X	
Employee Training-related travel, lodging and food	X	
On-site facility usage	X	
Other (Specify):		
Total Training Costs:		

ADDENDUM B

Incumbent Worker Training Roster and Documentation of Trainee Employment History

Employer Name: _____

Training Course Name: _____ Period Covered: _____

INSTRUCTIONS:

1. Initially, complete Columns A-E. (Employer may substitute an employee ID number for the last four digits of the SSN). Columns G and H are completed at the end of training when the form is certified by Employer’s authorized signatory and submitted with invoice.
2. Employment History Documentation – Record date of permanent employment (may include time spent as a temporary/contract worker for the Employer). Verification of employment should be provided by the Employer.
3. The Credential or Certificate earned must not be an attendance document. It must represent skills or knowledge acquired.

A. Trainee Name	B. Last 4 #s of SS#	C. Job Title	D. Hire Date	E. Actual Training Start Date	F. Actual Training End Date	G. Completed Training Yes/No	H. Type of Credential/ Certificate
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							
11.							
12.							
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16.							
17.							
18.							
19.							
20.							
21.							
22.							
23.							
24.							
25.							

I certify the above information is true and correct to the best of my knowledge. (To be signed at the end of training and submitted with training invoice.)

Authorized Employer Signature: _____

Printed Name and Title: _____

Attachment B

Conflict of Interest Certification

The business agrees that no individual in a decision making capacity will engage in any activity, including the administration of the IWT contract supported by WIOA funds, if a conflict of interest, real or apparent, is present. A conflict of interest may arise in the event that an employee under this IWT contract is an immediate family member (or partner) of an individual engaged in a decision making capacity with Northwest Georgia Workforce Development Board, the Northwest Georgia Regional Commissions, the Georgia Department of Labor or the business.

Immediate family is defined as husband, wife, son, son-in-law, daughter, daughter-in-law, mother, mother-in-law, father, father-in-law, brother, brother-in-law, sister, sister-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparents, grandchild, half-brother half-sister, first cousin or individual residing in the same household or an organization that has a financial or other interest in the firm or organization selected for the IWT contract. In the event of a potential conflict of interest, the business must notify the Northwest Georgia Regional Commission Workforce Development Director in writing, of the potential conflict. No action regarding the individual may take place until approved by the Northwest Georgia Regional Commission in writing.

Business Name: _____

Authorized Signatory: _____

Date of Signature: _____

Printed Name and Title _____

Attachment C
Sub-Sub-Contractor Affidavit
under O.C.G.A. § 13-10-91(b)(4)

By executing this affidavit, the undersigned sub-subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract for _____ and the Georgia Department of Labor on behalf of the Northwest Georgia Regional Commission has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A § 13-10-91. Furthermore, the undersigned sub-subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned sub-subcontractor shall submit, at the time of the contract, this affidavit to the Georgia Department of Labor. Additionally, the undersigned sub-subcontractor will forward notice of the receipt of any affidavit from a sub-subcontractor to the Georgia Department of Labor. Sub-subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Sub-subcontractor

Incumbent Worker Training

Name of Project

Northwest Georgia Regional Commission

Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, 2017 in _____, _____.
(Month) (Day) (City) (State)

Signature of Authorized Officer or Agent

Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE _____ DAY OF _____, 20____

NOTARY PUBLIC

My Commission Expires: _____

