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<b>REQUIREMENTS FOR THE DELIVERY OF ON-THE-JOB TRAINING</b>	

**PURPOSE**

Section 134(c)(3)(H) of the Workforce Innovation and Opportunity Act (WIOA) allows the Governor and local boards to reimburse employers for On-The-Job Training (OJT) participants. SOWIB encourages the use of OJT by its contracted service providers to better meet the needs of job seekers and local employers. This policy conveys the local requirements for the development of OJT opportunities and contracts.

**REFERENCES**

- WIOA Section 3(23)
- WIOA Section 3(44)
- WIOA Section 134(c)(3)(H)
- Proposed rules at 20 CFR 667.270, 680.700, 680.720, 680.730, and 683.270
- Training and Employment Notice (TEN) 41-10
- Training and Employment Guidance Letter (TEGL) 13-15
- Training and Employment Guidance Letter (TEGL) 16-12

**BACKGROUND**

OJT is a hire-first program. In consideration of the extra costs to the employer of hiring and training a new employee or promote an employee onsite, a portion of the employee's wages may be reimbursed for a limited duration. OJTs put unemployed individuals to work and keeps incumbent workers earning a wage while they receive training to address gaps in their skill set that hinders them from fully performing a job.

OJT is not a subsidized employment program. The OJT contract assists businesses in training and retaining skilled, productive workers by off-setting the extraordinary costs of providing the training and additional supervision related to the training. A rigorous training plan, put in place by the employer, leads to employee retention and/or growth in the job. OJTs are intended to encourage the development of in-company training programs that lead to transferrable skills for eligible individuals who would not otherwise be hired or promoted to a given position. OJT is not an entitlement program for employers. The decision to enter into contract with an employer is at the discretion of the Workforce Board and its contracted service providers.

**POLICY**

**Eligible trainees.** Contracted service providers will only enter into OJT's on behalf of eligible trainees who are:

- a. Job seekers enrolled in the WIOA Title I Adult, Dislocated Worker and/or Youth or other SOWIB programs that the employer agrees to hire or incumbent workers that the employer intends to retain; and
- b. Who are assessed as having the skills and qualifications to participate successfully in an OJT training contract, in order to obtain or retain employment that leads to self-sufficiency.

**Eligible employers.** Contracted service providers will enter into OJT contracts and provide OJT reimbursements only to eligible employers that meet the following criteria:

- a. Have the capacity and resources to adequately train the OJT candidate with the intent of retaining the employee in long-term, full-time employment;
- b. Enter into a signed training contract that spells out the training expectations of the employee and the employer;
- c. Have adequate payroll and record keeping systems in place;
- d. Have the explicit agreement of the bargaining agent if OJT positions are covered by collective bargaining agreements;
- e. Provide the same rate of pay, fringe benefits and working conditions offered to the OJT trainee as similarly situated employees in similar positions in the local labor market;
- f. Have adequate Workers' Compensation or accident insurance coverages in effect;
- g. Are private or non-profit sector employers. OJTs may be used in conjunction with apprenticeships. NOTE: Some fund sources ban the use of OJTs with public sector employers, casinos, gaming establishments, swimming pools, aquariums, zoos, golf courses and faith-based organizations.
- h. Preference should be provided to private sector employers operating in in-demand sectors or providing in-demand occupations or providing a higher wage.
- i. An employer is **not eligible** to enter into an OJT contract or receive OJT reimbursements if any of the following applies:
  - i) OJT positions result in worker displacement -
    - (1) Any other individual is on layoff status with recall rights from the same or any substantially equivalent job in compliance with the employer's layoff policy or those of the Local Workforce Development Area;
    - (2) The employer has terminated the employment of any regular employee with the intention of filling the vacancy with an OJT participant;
    - (3) The OJT position infringes on the promotional opportunities of currently employed workers.
    - (4) The prohibited displacement may also include a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits of any currently employed employee.
  - ii) Employer has relocated all or part of their business within the previous 120 days where the relocation action has resulted in the loss of employment of any employee at the original location;
  - iii) Employer has been convicted of violating federal laws and regulations;
  - iv) Employer received OJT payments under contracts under WIOA or the Workforce Investment Act of 1998 and exhibited a pattern of failing to provide participants with continued long-term employment as regular employees with wages and

employment benefits (including health benefits) and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

**OJT Training Duration.** An OJT contract must be limited to the period of time required for a participant to become proficient in the occupation for which the training is being provided, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate. The length of training under an OJT contract may not exceed six months, except with explicit agreement from the Workforce Board, based on the needs of the job seeker. The contract should include a planned retention period to assure that the trainee has mastered the skills needed to succeed in the occupation.

**Reimbursement.** Employers may be reimbursed only for the portion of the trainee's wages agreed upon in the OJT contract. Employers may be reimbursed only for time the trainee was actually on the job and receiving training.

- a. The reimbursement amount will be a negotiated percentage of the wage paid to the trainee.
  - i. The employer reimbursement rate for OJT **may not** exceed 75 percent.
  - ii. The employer reimbursement may only exceed 50 percent of the trainee's wage rate under the following conditions and with approval of the Workforce Board:
    1. The characteristics of the participant(s) with an emphasis on barriers to employment as defined in WIOA Section 3(24);
    2. The size of the employer with an emphasis on small businesses (i.e., employers with fewer than 250 employees);
    3. The quality of employer-provided training (e.g., an industry-recognized credential, advancement opportunity) and advancement opportunities;
    4. The number of employees participating in the training;
    5. Wage and benefit levels of the employees (both pre and post participation earnings),
    6. The relation of the training to the competitiveness of the participant).
    7. The OJT position is an in-demand occupation as identified by the local board in alignment with WIOA Section 3(23);
    8. The OJT employer is in an in-demand industry identified by the local board as defined by WIOA Section 3(23)
- b. For trainees placed in positions where the average hourly rate exceeds the average state hourly rate of \$22.53 per hour, the training reimbursement percentage must be applied against the state's average hourly rate.
- c. Employer requests for reimbursement must include:
  - i. Exact hours and wages paid to the trainee by the employer.
  - ii. Payroll check stubs or payroll records that show the gross wage amount that the employer paid the trainee along with other payroll deductions.
- d. Contracted service provider shall maintain copies of the document(s) upon which reimbursement was based and provide copies upon request from the local board.
- e. Contracted service provider is responsible to ensure that the employer is paying the trainee in accordance with all payroll laws and regulations.

- f. Employers may request wages expended, not to exceed total OJT contracted amount monthly.

## **DEFINITIONS**

**On-the-job training:** Training provided by employers to paid participants in the form of productive work in jobs that (1) provide the knowledge or skills essential to the full and adequate performance of the jobs, (2) are available through programs that provide reimbursement to employers of up to 50 percent of the participants' wages, with the exception provided by this policy, for the extraordinary costs of training and additional supervision related to the training, and (3) are limited in duration as appropriate to the occupations for which participants are being trained, taking into account training content, participants' prior work experiences, and participants' service strategies.

**Reimbursement Rate.** A reimbursement rate, or reimbursement level, refers to the percentage of the OJT participant's hourly wage or wage cap that can be reimbursed to an employer.

**In-Demand Industry Sector or Occupation:** In general, (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. The determination of whether an industry sector or occupation is in-demand shall be made by the state board or local board, as appropriate, using state and regional business and labor market projections, including the use of labor market information.