



**Workforce
Development
Council**

Benton-Franklin Workforce Development Council Workforce Innovation and Opportunity Act (WIOA)

Subject: On-the-Job Training Policy (OJT)

Policy No: 2015-05

Effective Date: 04/26/2016

Amended: 11/01/2016

1. Purpose:

This policy addresses the use of WIOA Title I funds for OJTs to support adults, dislocated workers, and youth participating in WIOA Title I activities. Section 134(c)(H) of the Workforce Innovation and Opportunity Act (WIOA) allows the Governor and local boards to increase the amount of employer reimbursement for an OJT participant to more than 50 percent of a participant's wage rate up to a maximum of 75 percent. This policy addresses the factors that must be considered and documented by local service providers that develop OJT opportunities and contracts.

2. Background:

OJT is an important work-based learning option that the one-stop system can offer to local employers and job seekers. OJT puts unemployed individuals to work earning a wage while they receive training to address gaps in their skill set that hinders them from fully performing a job. OJT also offers individuals a more family-friendly "learn and earn" training option in that they have a chance to upgrade their skills while earning a regular paycheck. For these reasons, OJT is a viable training pathway for those seeking reemployment. For employers, OJT offers the opportunity to offset initial training costs to fill skilled positions while building organizational productivity as the participant learns job requirements. An OJT arrangement can also be the impetus for employers to create job opportunities now.

Operational Procedure

A. OJT Requirements

OJT is provided under a contract with an employer in the public, private non-profit, or private sector. This is a tool to help the business take the extra training steps needed to get a participant up to acceptable levels of competence. OJT funds can be used to reimburse a business for the extraordinary costs associated with training a WIOA participant who does not possess all of the skills, training, education, and/or work experience required for the job. Through the OJT contract, full-time (32-40 hours per week), in-demand occupational training is provided to the WIOA participant in exchange for reimbursement, typically up to 50 percent of the wage rate of the participant, for extraordinary costs of providing the training and supervision related to the training.

In limited circumstances, reimbursement may be up to 75 percent of the wage rate of the participant after considering and documenting the following factors (WIOA Section 134 (c)(H) (ii)) and;

1. Characteristics of the participants with an emphasis on someone with barriers to employment (See section H – Definitions);
2. Size of the employer with an emphasis on small businesses (i.e., employers with fewer than 250 employees);
3. Quality of employer-provided training (e.g., an industry-recognized credential, advancement opportunity);
4. The number of participants the employer agrees to sponsor;
5. Wage and benefit level of the participant (both during and after completion of the OJT);
6. OJT position is an in-demand occupation as defined by WIOA Section 3(23) and determined by Employment Security Department (ESD) labor market information;
7. OJT employer is an in-demand industry as defined by WIOA Section 3(23) and determined by ESD labor market information; and
8. Employer attestation, in writing, that it is not delinquent in unemployment insurance or worker's compensation taxes, penalties, and/or interest.

Service providers must document these factors when approving an increase in the employer reimbursement level above 50 percent up to 75 percent.

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. In determining the appropriate length of the contract, consideration should be given to the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the individual participant plan (§680.700)

Service providers must not contract with an employer who has received payments under previous contracts under WIOA or Workforce Investment Act (WIA) if the employer has exhibited a pattern of failing to provide OJT 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 (§680.700). The service provider must not contract with an employer who has relocated to the area and displaced workers in another geographic location as a result of the relocation.

An OJT contract may be written only when:

1. Presently employed workers are not adversely affected;
2. Trainees do not represent a disproportionate share of the employer's workforce;
3. The employer has the necessary equipment, materials, and supervision to perform the training;
4. The employer has, or forecasts, sufficient work to provide long-term, regular employment for the participant;
5. The OJT activity does not result in the replacement of any workers currently on layoff;
6. The employer has not been seriously deficient in its conduct of or participation in any DOL program;
7. The process for review and approval of OJT contracts should ensure that contracts are not approved with employers who have not retained previous OJT participants or have experienced other problems, including:
 - Any employer known to be in violation of local, state or federal law is not eligible to participate in OJT programs;
 - Any employer who has experienced serious problems while participating in OJT programs previously will not be used;
 - Private, public and private nonprofit agencies must be able to provide proof that the business has successfully been in existence for at least one year;
 - Contracting or re-contracting is to be based on the employer's ability to meet the objectives of the program. The employer's success in training and retaining OJT employees will be considered in determining whether future OJT contracts will be awarded.

B. OJT Contracts for Employed Workers

OJT contracts may be written for eligible workers when:

1. The employee is not earning a self-sufficient wage as determined by Benton-Franklin Workforce Development Council (BFWDC) policy; and
2. The requirements in §680.700 are met; and
3. The OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, workplace literacy, or other appropriate purposes identified by the BFWDC;
4. The contract documents a plan for wage progression, increased hours and/or benefits at the end of the contracted training period.

C. OJT Outside of the Benton-Franklin Workforce Development Area

OJT contracts may be written with employers in another area when the participant must relocate or commute in order to obtain employment. The WIOA service provider must develop a process to set up, monitor and collect all required paperwork for out of area OJT's.

D. Conditions Governing OJT Payments to Employers

Each OJT contract shows the total amount of payment authorized. Employers may be reimbursed 50 percent of the wage rate of an OJT participant, and up to 75 percent using the criteria in §680.730, for the extraordinary costs of providing the training and additional supervision related to OJT (WIOA secs. 3(44) and 134(c)(3)(H)(i)). Employers are not required to document such extraordinary costs.

On-The-Job Training reimbursements to employers are for extraordinary costs of training a less skilled and less experienced, lower productive worker during the training period. OJT employers can be reimbursed for only those hours actually spent in training while on the job. Reimbursements are to be used according to the following guidelines:

1. No overtime rates - OJT payments may only be paid for regular wages paid by the employer. Payment may not be based on overtime, shift differential, premium pay and other non-regular wages. This does not preclude a participant from working overtime; however, the reimbursement to the employer must be based on the regular wage rate;
2. No holidays, vacation, sick leave, etc. - no reimbursement for time not spent in training;
3. No fringe benefits;
4. Funds cannot pay for work performed outside the terms of the contract;
5. Funds cannot be used to directly or indirectly assist, promote, or deter union organizing §680.850;
6. Employer reimbursements cannot be paid until the OJT Reimbursement Request certifying the hours of training, pay rate, etc. has been approved.

E. WIOA Service Provider Responsibilities

WIOA service providers have the responsibility of ensuring employer compliance with the terms and conditions of the OJT contract. An orientation will be provided to ensure the employer understands the contract terms, the purpose of OJT, the best method of communicating with the program, and the process of preparing and submitting timesheets, etc. as outlined in the Terms and Conditions section of the OJT contract. Attainment of skill gains to be obtained by the trainee must be documented.

F. Documentation

The WIOA service provider is responsible for reporting participant and expenditure activity to the BFWDC in a timely manner to ensure appropriate deadlines are met for payment and reporting purposes.

Additional requirements/documentation include:

1. Case notes documenting comprehensive assessment information shall be used as part of the need/justification of the OJT and the length of training;
2. A completed OJT contract signed by all parties before the OJT employee begins training;
3. Contract signature dates can only be changed by the individual signing the document and changes must be properly initialed by that individual;
4. Each contract with an OJT employer shall be periodically monitored onsite to assure training is being provided as specified in the contract and issues identified by the employer must be discussed and documented;
5. Timesheet and wage records must be maintained to verify accuracy and timeliness of record keeping.

G. Required OJT Forms

1. Agreement
2. Guidelines
3. Agreement Modification (if applicable)
4. Site Visit Report
5. Checklist
6. Evaluation
7. Reimbursement Request

H. Definitions

1. **Individual with a barrier to employment:** means a member of 1 or more of the following populations:
 - Displaced homemakers
 - Low-income individuals
 - Indians, Alaska Natives, and Native Hawaiians, as such terms are defined in section 166
 - Individuals with disabilities, including youth who are individuals with disabilities
 - Older individuals
 - Ex-offenders
 - Homeless individuals (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6))), or homeless children and youths (as defined in section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)))

- Youth who are in or have aged out of the foster care system
 - Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers
 - Eligible migrant and seasonal farmworkers, as defined in section 167(i)
 - Individuals within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).
 - Single parents (including single pregnant women)
 - Long-term unemployed individuals
2. **On-the-Job Training** - Training provided by employers to paid participants in the form of productive work in jobs that:
- Provide the knowledge or skills essential to the full and adequate performance of the jobs;
 - Are available through programs that provide reimbursement to employers of up to 75 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
 - 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.
3. **In-Demand Industry Sector or Occupation** - In general;
- 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
 - 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.