



# **Workforce Innovation and Opportunity Act**

# **On-the-Job Training Policy and**

# **Procedures**

No individual in the United States may, on the basis of race, color, religion, sex, national origin, age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship or participation in any WIOA Title I-financially assisted program or activity, 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 WIOA Title I-financially assisted program or activity.

# On-the-Job Training Policy

## I. PURPOSE

The purpose of this policy is to provide guidance to the Northeast Workforce Development Area (NEWDA) system partners and to establish Northeast Workforce Development Board (NEWDB) standards for the development and implementation of On-the-Job Training (OJT) opportunities. This policy is established in accordance with applicable State and Federal laws and regulations.

## II. BACKGROUND

On-the-Job Training (OJT) is defined in the Workforce Innovation and Opportunity Act (WIOA) Section 3(44). WIOA allows for the provision of OJT for an individual when other criteria are met. An OJT may take place with an employer in the public, private, and nonprofit sector. The NEWDB requires the execution of written OJT contracts with employers that provides for a “structured” OJT opportunity.

OJT is a viable training option for WIOA trainees who prefer hand-on training experiences to a traditional classroom setting. In Oklahoma’s rapidly changing economy, new and growing companies face both uncertainties and possibilities. OJT provides the opportunity for employers to hire employees and provide them with the new and additional skills needed to successfully perform on the job.

Through written contract, the employer provides structured training through OJT, in exchange for a percent of wage reimbursement to compensate for the employers cost associated with training and additional supervision of the OJT trainee (WIOA Section 3(44) and Section 134 (c)(3)(H)). The OJT provides WIOA trainees the opportunity to receive training while employed and to be paid wages comparable to other employees in similar positions. From the beginning of the OJT, the trainee is employed by the employer, with the intent of leveraging training and skill gains for retained employment after the OJT period ends. OJT gives employers the opportunity to tap into a pool of workers who are good candidates for a job but need additional training to be able to perform successfully on a specific job.

OJT is an important training services activity whereby employers provide necessary equipment and training for jobs by means of a “hire first - earn while you learn” strategy. WIOA trainees who successfully complete the OJT period are subsequently retained in permanent employment. OJT is intended for occupations in the higher skills categories. It is not subsidized employment of low-skill occupations, which require very little training time. OJT is only appropriate for the length of time necessary to be trained in the specific occupation not to exceed 1040 hours.

**Legal Use of Federal Funds:** WIOA funds may not be used to help employers to fill positions that promote or support the use, possession or distribution of marijuana.

## III. REFERENCES

- The Workforce Innovation and Opportunity Act (WIOA) Section 134(d)(5)
- WIOA Section 3 (44)
- WIOA Section 134 (c)(3)(H)
- 20 CFR, Parts 680.700 through 680.840
- TEGL 19-16
- OWDI #07-2020 Adult and Dislocated Worker

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**BABEL NOTICE:** (29CFR 38.9(g)(3)): This document contains vital service information. If English is not your preferred language, please contact:

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To enable telephone conversation between people with speech or hearing loss and people without speech or hearing loss please call Oklahoma Relay at 711 (<http://www.oklahomarelay.com/711.html>) or TDD/TTY: 800-722-0353.

**Federal & State Policy On-the-Job Training Requirements (20 CFR, Section 680.700):**

- a) OJT is defined at [WIOA](#) sec. 3(44). OJT is provided under a contract with an employer or registered apprenticeship program sponsor in the public, private non-profit, or private sector. Through the OJT contract, occupational training is provided for the WIOA participant in

exchange for the reimbursement, typically up to 50 percent of the wage rate of the participant, for the extraordinary costs of providing the training and supervision related to the training. In limited circumstances, as provided in WIOA sec. 134(c)(3)(h) and § 680.730, the reimbursement may be up to 75 percent of the wage rate of the participant.

- b) OJT contracts under WIOA title I, must not be entered into with an employer who has received payments under previous contracts under WIOA or 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.
- c) 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 participant's IEP.

#### Other Requirements:

- [From §680.830](#) – Funds provided to employers for work-based training must not be used to directly or indirectly assist, promote, or deter union organizing
- [From §680.640](#) – Funds provided to employers may not be used to directly or indirectly aid in the 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 of which is otherwise an issue in a labor dispute involving a work stoppage.

#### OJT Contract Requirements

- [From §680.710](#) – OJT contracts may be written for eligible employed workers when:
  - a) The employee is not earning a self-sufficient wage or wages comparable to or higher than wages from previous employment, as determined by Local WDB policy;
  - b) The requirements in §680.700 are met, and;
  - c) 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 Local WDB.

#### Conditions Governing OJT Training Payments to Employers

- [From §680.720](#)
  - a) OJT payments to employers are deemed to be compensation for the extraordinary costs associated with training participants and potentially lower productivity of the participants while in the OJT.
  - b) Employers may be reimbursed up to 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 the OJT.
- c) Employers are not required to document such extraordinary costs

#### [OWDI 07-2020](#)

OJT continues to be a key method for delivering training services to adults and dislocated workers. Locals may provide up to 50 percent of the wage rate of the participant to employers for the costs of training while the participant is in the program. For local areas to increase the reimbursement level up to 75 percent, the following factors must be taken into account:

- The characteristics of the participants, taking into consideration whether they are individuals with barriers to employment as defined in WIOA 3(24);
- The size of the employer, with an emphasis on small businesses;
- The quality of employer-provided training and advancement opportunities (for example, if the OJT contract is for an in-demand occupation and will lead to an industry-recognized credential); and
- Other factors the LWDB may determine appropriate such as, the number of employees participating in the training, wage and benefit levels of the employees, including both pre- and post-participation earnings, and relation of the training to the competitiveness of the participant.
- LWDBs must document the factors used in either Case or Program notes, when deciding to increase the wage reimbursement levels above 50% and up to a maximum of 75%.

#### **IV. POLICY: ON-THE-JOB TRAINING (OJT)**

OJT must be executed through a written contract to provide a structured occupational training opportunity for the OJT trainee which:

- provides knowledge or skills essential to the full and adequate performance of the job;
- provides reimbursement to the employer of up to 50 percent of the wage rate of the trainee, for the extraordinary costs of providing the training and additional supervision related to the training and up to as much 75% in consideration of additional factors as described in WIOA Section 134 (c)(3)(H). Flexibility to increase the reimbursement level up to 75% taking into account the following factors:
  - Characteristics of the participants, taking into consideration whether they are individuals with barriers to employment as defined in WIOA 3(24)
    - Defined locally as long-term unemployed (27 weeks or longer);
  - The size of the employer, with an emphasis on small businesses
    - The employer must have fewer than 100 employees;
  - Quality of employer-provided training and advancement opportunities – The employer’s quality training in in-demand occupations leads to an industry recognized certification;
  - The employer pays a beginning rate of pay of \$13.08 or higher; and
  - is limited in duration as appropriate to the occupation for which the trainee is being

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trained, taking into account the content of the training, the prior work experience of the trainee and the service strategy of the trainee, as appropriate.

The contract must be completed and signed before the start of the OJT training period and position. If either the OJT employer or trainee is located out of the NEWDB service delivery area or the State of Oklahoma, the trainee's residence must be within a 50-mile radius of the OJT training site. Priority will be given to trainees and employers within the NEWDB service delivery area. OJTs outside the NEWDB service delivery area must be approved by the NEWDB Executive Director. The WIOA Program Staff must submit a written request for NEWDB approval, including justification and supporting documents, prior to the enrollment of individuals in "out of area" OJT's. The WIOA Program Staff and the employer must sign an OJT Contract for each OJT trainee.

#### **4.1 Reimbursement Cap:**

For the purposes of these OJT training contracts, the training reimbursement is restricted by a wage cap as established by the Department of Labor's Employment and Training Administration (DOLETA). The NEWDB will reimburse an employer from 50 percent and up to 75 percent, under conditional factors (listed on page 3), of the. Maximum amount of total reimbursement will not exceed \$15,000 per contract. Individual customers may be eligible for multiple OJT contracts, in a lifetime, with prior approval by Executive Director.

Employers are required to compensate OJT trainees at the same rates as trainees or employees who are employed in comparable occupations by the same employer and who have similar training, experience, and skills. However, if the job pays less than the capped level for similar work, the OJT wages and training reimbursement should be based on this lesser level. The OJT trainees should not be paid more simply because the state's average wage makes available a higher reimbursement threshold.

#### **4.2 Participant Eligibility:**

##### **General Eligibility:**

An individual may be considered for an OJT when he/she has met the eligibility requirements for the, Adult, Dislocated Worker or Youth program, and has been determined to be in need of a training service. Once deemed eligible, the individual will then receive the comprehensive or objective assessment and an Individual Employment Plan (IEP)/Individual Service Strategy (ISS) will be developed.

##### **Employed Participant Eligibility:**

As identified in CFR [§680.710](#) (see above) OJT's may be written for Employed Workers under specific circumstances. In order to provide an OJT with an employee at an employer for which he is already employed, the following must occur:

- All criteria outlined in CFR §680.710 are met as follows:
  - Determination as to whether the employee is currently earning a self-sufficient wage. Review via NEWDB [Self-Sufficiency Policy](#).

- Determination of 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 Local WDB, see directly below; will be determined by outlining new skills to be developed through the OJT in the “Trainee Work Plan” (attachment C) in combination with a comparison of the participant’s existing skill levels in their current position. A comparison of job descriptions will be utilized to determine an appropriate difference in skill needs. The job descriptions will be uploaded as supporting documents with the OJT document uploads.
- Other appropriate purposes are defined by the NEWDB as:
  - The participant begins new role or position with the employer.
    - This will be validated through verification from the employer of the participants official Position Start Date.
  - The participant receives a wage increase that moves them toward self-sufficiency.
    - This will be validated by the WIOA Program Staff through payroll documentation of previous and proposed wage and through documentation in the program notes.

### **4.3 Employer Eligibility:**

Careful consideration should be given when selecting suitable employers. OJT contracts must not be entered into with employers who have displayed a poor pattern of retaining OJT trainees.

OJT is a “hire first” program. The OJT trainee shall be an employee of the company at the start of the training program. Training may begin after the OJT Contract has been signed by all parties. The employer is required to certify the intention to retain the OJT trainee after the subsidized training period if the OJT trainee accomplished the specific occupational skills to be learned as stated in the OJT Contract.

### **4.4 Pre-Award Review:**

[20 CFR 683.260](#) WIOA funds may not be used or proposed to be used for:

- The encouragement or inducement of a business, or part of a business, to relocate from any location in the United States, if the relocation results in any employee losing his or her job at the original location.
- Customized training, skills training, or on-the-job training or company specific assessment of job applicants or employees of a business or a part of a business that has relocated from any location in the United States, until the company has operated at the location for 120 days, if the relocation has resulted in any employee losing his or her job at the original location.

To verify that an establishment which is new or expanding is not relocating employment from another area, a pre-award review must be completed and documented jointly as a prerequisite to WIOA assistance. The employer wishing to implement training must be reviewed on-site prior to the execution



of the first training agreement of each year. New employers, including employers who have not entered into OJT Contracts for more than one year, must receive an on-site pre-award review.

NEWDB WIOA Program Staff must use the Pre-Award Review form to provide documentation of the new or expanding establishment. Although the Pre-Award Review form must be completed before the execution of a contract, the Pre-Award Review and the signing of the contract may occur during the same visit to the establishment. The Pre-Award Review form includes the following:

- The names under which the establishment does business, including predecessors and successors in interest;
- The name, title, and address of the company official certifying the information;
- Whether WIOA assistance is sought in connection with past or impending job losses at other facilities;
- Whether WARN notices relating to the employer have been filed,
- Whether worker's compensation coverage is provided to employees;
- The employer has not had any wage and hour or child labor violations during the past months,
- The training activity shall not impair an existing contract for services or collective bargaining agreement, and no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned;
- The employer has not exhibited a pattern of failing to provide WIOA trainees with training, wages, benefits, and working conditions equal to that of regular employee, and;
- The number of employees currently employed.

#### **4.5 OJT Contract Requirements:**

The OJT Contract is limited to the period of time required for the OJT trainee 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 skill requirements of the occupation, the academic and occupational skill level of the trainee, prior work experience and the trainee's individual employment plan. The rationale for the training duration must also take into account a trainee's disability including, the need for accommodations, and the program's available funding. The rationale for the OJT training, including duration must be entered into the trainee's Individual Employment Plan.

In developing an approach to assessing the time requirements, the NEWDB contracted WIOA Program Staff will consider the following:

The [Specific Vocational Preparation \(SVP\) skills](#) needed for that occupation as shown by O\*NET.

1. Short demonstration only
2. Anything beyond short demonstration up to and including 1 month
3. Over 1 month up to and including 3 months
4. Over 3 months up to and including 6 months
5. Over 6 months up to and including 1 year



6. Over 1 year up to and including 2 years
  7. Over 2 years up to and including 4 years
  8. Over 4 years up to and including 10 years
  9. Over 10 years
- The nominal training time for that occupation as shown by O\*NET provides information about job classifications and categorizes them into different zones of preparation. O\*NET may be accessed at: <https://www.onetonline.org/>.
  - [OJT Job Zone example:](#)

**Job Zone Two: Some Preparation Needed**

<b>Education</b>	The occupations usually require a high school diploma.
<b>Related Experience</b>	Some previous work-related skill, knowledge, or experience is needed. For example, a teller would benefit from experience working directly with the public.
<b>Job Training</b>	Employees in these occupations need anywhere from a few months to one year of working with experienced employees. A recognized apprenticeship program may be associated with these occupations.
<b>Job Zone Examples</b>	These occupations often involve using your knowledge and skills to help other. Examples include orderlies, forest fighters, customer service representatives, security guards, upholsterers, and tellers.
<b>SVP Range</b>	(4.0 to < 6.0)

- The specific additional skill to be learned by the OJT trainee as determined by the assessment of the trainee's current skills and experience in comparison to what is required for successful performance in that specific occupation.
- OJT's listed at Job Zone 2 (3-6 months/520-1040 hours) or below requires NEWDB Executive Director approval. SVP Job Zones may define that long term training may be needed to reach proficiency, as in Job Zone 5 and higher, but OJT contracts are capped at 1040 hours or the \$15000 maximum reimbursement, whichever comes first.

**OJT Contracts require the following:**

- Wages paid to OJT trainees must be at least the prevailing entry wage for the occupation of the employer. If the employer operates under a collective bargaining agreement, the wage and benefits must be those specified in that union agreement and the job opening must be cleared with the appropriate union.
- Employers must comply with requirements of the Civil Rights Act with respect to equal opportunity in employment for the OJT position as well as comply with all federal, state, and local laws.
- OJT trainees hired under this program will be subject to the same personnel policies, rules and

regulations, and accorded the same benefits as the other employees of the company.

- Employers must carry worker's compensation insurance and do federal and state tax withholdings as required by law. In addition, the individual OJT trainee payroll tax records and receipts for services (if applicable) must be maintained and available for review for a minimum period of three years after the end of the training period.
- Conditions of employment and training will be in full accordance with all applicable federal, state, and local laws (including but not limited to child labor, health and safety laws), and be appropriate and reasonable regard to the type of work undertaken and the proficiency of the trainee.
- Employer certifies that the OJT trainee will not displace any regular employees of the employer and certifies that no person was displaced as a result of relocation of the current business within 120 days prior to signing the Pre-Award Review.
- The OJT occupation must not involve religious or political activity.
- The OJT must be conducted at the employer's place of business or another site, and may not be subcontracted.
- No employer may hire an OJT trainee if a member of the OJT trainee's immediate family is engaged in an administrative capacity for the employer.
- The OJT employer must certify that neither the employing company nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or excluded from participation by any federal department or agency.
- The OJT Training Plan must be written for skills that the OJT trainee does not already possess. Care must be given to check the OJT trainee's work history, and to document that the new skills to be learned are different, more difficult, and/or unique to the new job, and are therefore necessary to perform the new job tasks.
- The OJT agreement will provide that the employer will maintain and make available time and attendance, payroll, and other records to support amounts invoiced and reimbursed under OJT Contracts.
- Modifications to the OJT contract can be made as needed through mutual agreement of the employer and the NEWDB contracted WIOA Program Staff. Any amendments to the contract require a contract modification from (Contract Modification Form included in attachments).

#### **4.6 Recordkeeping System:**

The WIOA Program Staff is responsible for payment and will be accountable, making sure that fiscal records are maintained properly. The WIOA Program Staff will adhere to the NEWDB/Fiscal Agent policy. Upon receipt of the OJT Contract, the WIOA Program Staff will review calculations of hours and wages and track the expenditures. As each invoice and time sheet is submitted, the WIOA Program Staff will review the documents for accuracy and process the payment. This will allow for a balance to be maintained of the unused training hours and current funds expended to date. All original contract files will be maintained by the WIOA Program Staff and will contain all payment information, as well as the

required documentation listed below. All contact files will be uploaded according to the state and local upload guidance.

#### 4.7 Documentation:

The documentation listed below will be uploaded in compliance with the state and local Data Validation Policies. Documentation must be maintained in the OJT Contract file along with other required elements stated in this guidance:

- Pre-Award Review Form
- OJT Contract
- OJT Employer and Employee Orientation Documentation
- Proof of Workers Compensation Insurance Coverage
- Any modifications to the Training Contract
- Training Time Documentation, to include Employer's Time punch in/out validation as well as "Monthly Time & Attendance Record" form.
- Training payment invoices
- Evaluations
- Monitoring reports, including problems, corrective action, and follow-up

In addition to the training conditions listed above, OJT Contracts must contain the following three clauses:

- 1) **Termination of OJT Trainees** – The employer agrees that the OJT trainee shall not be terminated from training without giving prior notice to the NEWDB contracted WIOA Program Staff and reasonable opportunity is given for correction or improvement of performance. The employer also agrees to immediately notify the NEWDB contracted WIOA Program Staff if the OJT trainee has an attendance or disciplinary problem, or has demonstrated an inability to perform in accordance with the training outline contained in the contract. The employer understands that the termination of an OJT trainee is subject to the Board's grievance procedures.
- 2) **Displacement of Currently Employed Workers** – The employer agrees that no currently employed worker shall be displaced by the OJT trainee including a partial displacement such as a reduction in the hours, wages, or employment benefits. The employer agrees that no OJT trainee shall be placed into a position that is currently vacated by an employee who is on layoff or into a position in which the employer has terminated the employment of an employee with the intention of filling the position with an OJT trainee. The employer further agrees that this contract does not infringe in any way upon the promotional opportunities of current employees not involved in OJT.
- 3) **Access to Records** – The employer agrees that at any time during normal business hours, and as often as deemed necessary, the NEWDB staff and/or contracted WIOA Program Staff, State of Oklahoma, U.S. Department of Labor, or other authorized federal agencies or their agents may inspect and monitor any records or activities pertaining to this contract. Such inspection shall be

made to determine if the employer is in compliance with the terms and provisions of this contract and if the OJT trainee is making sufficient progress.

#### **4.8 Monitoring & Oversight:**

The NEWDB staff will monitor each OJT contract on-site, at least once during the training period to ensure compliance with contract terms and to help solve any concerns between the WIOA Program Staff, employer(s), and OJT trainee.

#### **4.9 Progress Review:**

Frequent contact with the employer and OJT trainee is essential. The OJT contract must be reviewed monthly, at a minimum, in order to evaluate the OJT trainee's progress, to document that the training is being provided as outlined in the contract, for compliance with provisions of the contract and to ensure that reimbursements are being made in accordance with procedures. Methods of contact can include on-site visits, phone or email, and in-person visits at off-site locations. Methods of contact must be sufficient to assure that training is being provided as specified in the OJT contract.

Employer contact and the trainee's progress must be documented in OKJobMatch Program Notes. OJT contracts must not be written for occupations that include the following characteristics:

- Jobs which require minimal skills training
- Jobs where the principal source of income is tips, commissions or piecework basis
- Jobs that are intermittent or seasonal in nature

Jobs used to assist, promote, or deter union organization

#### **4.10 Employer Orientation:**

The employer must receive an orientation from the NEWDB contacted WIOA Program Staff to ensure the employer understands the following:

- The contract terms
- The purpose of the OJT (including the training plan)
- The best method of communicating with the WIOA Program Staff
- The process for preparing and submitting timesheets
- The requirement that the employer must provide orientation to the trainee which includes the employer's expectations, training and evaluation methods.

#### **4.11 OJT Employee Orientation:**

Documentation must be obtained and uploaded to verify the employer has provided orientation to the OJT trainee. Orientation must include the following:

- Employer rules
- Employer expectations

- Worksite safety information
- Employer Benefits
- Employer evaluation methods

#### **4.12 Reimbursement of Employee Wages:**

The employer must provide the following documentation monthly to the WIOA Program staff for reimbursement of the employee wages:

- Training time documentation, to include employer's time punch in/out validation as well as "Monthly Time and Attendance Record" form.
- The training payment invoices
- Payroll registers or summaries showing the hours paid to the employee for each pay period. The hours on this document must show regular, vacation, sick, holiday and other leave paid each pay period.

The WIOA program staff will be responsible for forwarding the documents to the NEWDB fiscal office for payment and uploading the documents into OKJobMatch. If all documents are provided and accurate NEWDB will provide payment to the employer within 30 days of the invoice being received.

#### **V. EQUAL OPPORTUNITY AND NONDISCRIMINATION STATEMENT:**

*All Recipients, and Sub recipients/Sub grantees must comply with WIOA's Equal Opportunity and Nondiscrimination provisions which prohibit discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship status or participation in a WIOA Title-I financially assisted program or activity.*

#### **VI. POLICY ADDITIONS AND CLARIFICATIONS:**

Attachment A – Pre-Award Review Form

Attachment B – NEWDB OJT Contract

Attachment C – OJT Trainee Work Plan

Attachment D – OJT Monthly Time & Attendance Records (Optional)

Attachment E– OJT Monthly Invoice – Employer Request for Reimbursement

Attachment F – OJT Employee Orientation

Attachment G – OJT Employer Orientation

Attachment H– Account Tracking Sheet

Attachment I – NEWDB OJT Contract Modification

Attachment J – OJT Progress Report/Training Skills

**OJT Document Attachments: For case management service provision, review and signature, as applicable, with participant and/or ETP.**

- Attachment A – Pre-Award Review Form
- Attachment B – NEWDB OJT Contract
- Attachment C – OJT Trainee Work Plan
- Attachment D – OJT Monthly Time & Attendance Records (Optional)
- Attachment E– OJT Monthly Invoice – Employer Request for Reimbursement
- Attachment F – OJT Employee Orientation
- Attachment G – OJT Employer Orientation
- Attachment H– Account Tracking Sheet
- Attachment I – NEWDB OJT Contract Modification
- Attachment J – OJT Progress Report/Training Skills

**Approved by**

**NEWDB Members Present      May 11, 2022**