
Chautauqua County Workforce Investment/Development Board

Policy Name: On-the-Job Training
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4/29/2021)

Policy & Guidelines:

I.	INTRODUCTION.....	1
II.	IDENTIFICATION OF OJT OPPORTUNITIES WITH QUALIFIED BUSINESSES...	1
III.	IDENTIFICATION AND ASSESSMENT OF TRAINING CANDIDATES.....	3
IV.	REIMBURSEMENT	4
V.	OJT REIMBURSEMENT CLAIMS.....	5
VI.	MONITORING.....	6
VII.	SUPPLEMENTAL INFORMATION FOR SPECIFIC FUNDING SOURCES.....	6

ATTACHMENTS:

- PRE-AWARD REVIEW BUSINESS APPLICATION
- RESPONSIBILITY QUESTIONNAIRE
- OJT BUSINESS SITE QUESTIONNAIRE
- SAMPLE CONTRACT w/ FEDERAL CERTIFICATIONS and COLLECTIVE BARGAINING AGREEMENT

I. INTRODUCTION

On-The-Job Training (OJT) is one of the allowable program activities authorized by the Workforce Innovation and Opportunity Act (WIOA). OJT is training provided by a private or public sector business to an individual who has been hired by the employer prior to training but after enrollment into WIOA (except for upgrading/retraining trainees).

OJT occurs while an individual is engaged in productive work learning the skills and information necessary for full and adequate performance on the job.

Reimbursement is provided to the business (training provider) to pay for the extraordinary costs associated with training participants who do not meet all minimum qualifications/requirements for the position, and for the costs associated with the initial lower productivity of the participants.

Despite the benefits to businesses who participate in OJT, the focus of the OJT program is on the individual. OJT is designed to provide an opportunity for WIOA eligible individuals to receive the training necessary to acquire skills and knowledge that will enable them to maintain unsubsidized employment and job advancement. When administered correctly and operated properly, OJT provides the most direct opportunity for unsubsidized employment for WIOA clients.

II. IDENTIFICATION OF OJT OPPORTUNITIES WITH QUALIFIED BUSINESSES

- Potential business candidates for OJT will be recruited through a number of avenues including identification and outreach through OSOS, identification through recruitment assistance given to businesses by One Stop center business services representatives such as job order creation, outreach through our website, identification by potentially eligible job seeking customers, and referrals from Partner and community agencies. Business Services representatives will attempt to target local businesses within demand occupation clusters as well as businesses within our region that are growing/expanding. Special marketing emphasis will be placed on the following identified stable/emerging regional industry sectors; Health & Life Sciences, Green & Renewable Energy, Advanced Manufacturing, and Leisure, Hospitality & Tourism including agri-tourism.

- Outreach will be conducted with area Businesses to identify possible situations where an OJT may be the motivator to train an unemployed (or under-employed) Center customer rather than another candidate. As potential matches arise, a skills gap must exist between the demonstrated skills of the individual and the qualifications of the position they are under consideration for.

- Eligible Businesses will be selected after successfully completing a screening process which includes;

- Completion and submission of a Pre-Award Review Application, and a Responsibility Questionnaire (attachments A & B). Any affirmative response on the Responsibility Questionnaire will be grounds for further review at this pre-award stage.
- Confirmation of the applicant business as a responsible training provider (bidder) through registration with the NY Dept. of State's Division of Corporations, check of Federal OSHA records, and a NYSDOL Vetting process which will include checking the following records;

- Unemployment Insurance records
 - WARN notices
 - Open investigations with NYSDOL's Public Works, Labor Standards and/or Safety and Health Divisions
 - Worker's Compensation Insurance and Disability Insurance coverage
- A site visit from a Business Services Representative to assess the worksite conditions and complete the OJT Business Site Questionnaire.
- As well as complying with the following assurances:
- Company verifies WIOA funds will **not** be used to relocate operations in whole or in part.
 - Company has operated at current location for at least 120 days. If less than 120 days and the business relocated from another area in the U.S and individual(s), employees were not laid off at the previous location as a result of the relocation.
 - If the company has a collective bargaining agreement, the OJT contract does not impair existing contracts for services or collective bargaining agreements. If, as a program authorized under title I of WIOA, the OJT would be inconsistent with a collective bargaining agreement, the program obtains written concurrence from the appropriate labor organization and employer before the OJT activity begins.¹
 - OJT funds will not be used to directly or indirectly assist, promote or deter union organizing, nor will funds be used for any Sectarian activities.
 - The OJT will not result in the full or partial displacement of employed workers.
 - The employer will comply with the non-discrimination and equal opportunity provisions of WIOA and their regulations.
- When re-contracting with a previous OJT employer, past performance including job retention in job training or related activities, fiscal accountability, and ability to meet performance standards should be taken into account. OJT contracts will not be written with a business who has previously exhibited a pattern of failing to provide OJT participants with continued long-term employment as regular employees with wages and 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 work. The LWDA deems a pattern will be established after one occurrence. The business will be given the opportunity to provide written explanation to the LWDA staff for review. If the written explanation successfully passes this review process and is approved, the business may be considered eligible for potential OJT consideration after a 3 month probationary period. A second occurrence will make the business ineligible for future OJT consideration. In instances of limited resources, priority of service will be given to businesses with no past violations of WIOA requirements.
- Prior to the execution of any OJT contract, the Business Services representative will ensure the position to be trained in is; a permanent full-time (minimum 35 hrs./wk) non-seasonal position, that wages, benefits and general working conditions are the same as for other similarly situated employees, the position pays minimum wage, trainee would not be replacing another employee on

¹ 20 CFR 667.270(b)

layoff, the trainee has not been employed by the company in the previous two years and never in this job title, and that the company clearly understands the expectation that the trainee will be retained in the position upon successful completion of the OJT.

- Contract proposals must include a separate training outline which takes into account the training areas identified by the company as well as the current skill set of the candidate to determine what the “skills gaps” of the individual are. It is those gap areas that are identified and addressed in the Training Outline. *Note: Assessment of skills gap may range from an evaluation of the above materials by the Business Services Representative, to the use of common assessment tools such as JobZone (for the candidates skills set) and O*Net (for the required skill/knowledge areas of the position).

Each training outline will identify the occupational title and DOT (Dictionary of Occupational Titles) code, list the major areas of training activity as well as length of training time necessary for each activity; and identify the person providing the training. Each Training Outline will also allow a 2-day provision for basic company orientation and these hours will NOT be reimbursable. Reimbursement will begin on the Trainee’s third day of employment with the Company. However, the first two day’s hours worked must be reflected on the OJT time log provided to the company by the LWDA business services representative.

III. IDENTIFICATION AND ASSESSMENT OF TRAINING CANDIDATES

- Potential candidates for OJT will be identified through a number of outreach efforts including, but not limited to: Training Information Sessions, One-Stop Workshops, Veteran's representative referrals, One-Stop staff referrals, outreach through our website, outreach to our job seeking customers, and referrals from Partner and community agencies.

- Only those individuals who meet the eligibility requirements for career services, who have received an assessment and for whom an Individual Employment Plan (IEP) has been developed may be considered for OJT. Additional eligibility parameters may apply such as long-term unemployed (27+ weeks) dependant on funding source for the OJT.

- Priority of service will be given to Veterans meeting other relevant eligibility requirements.

- Priority for OJT is given to Center/System customers who either were referred directly to an OJT eligible Business OR who developed an OJT opportunity by marketing their OJT-eligible status to a Business as part of their job search. A candidate who is not a Center/System customer but is referred by a potential OJT Business may be considered under some funding sources, but would not receive priority status.

- OJT candidate must not have received WIOA training dollars within the previous 36 months from the potential start date of OJT contract, as determined through OSOS records. This requirement may be waived based on funding source for OJT.

- A candidate who is currently employed may only be considered for OJT if they are “under-employed” (currently defined as working less than 30hrs/week) or if they are receiving public assistance (cash, food stamps, Medicaid).* NOTE: Some funding sources will require the candidate

to be a dislocated worker or long-term unemployed in which case those funds may not be used for an under-employed candidate.

- A former employee of the potential OJT company may only be considered for an OJT contract in a different position from any previously held at the company, and only if it has been more than two years since the individual worked for that particular company. LWDA staff will determine prior to executing OJT contract and document on the OJT Business Site questionnaire completed with company representative.

- No person shall be excluded from participation in, be denied benefits, or be subjected to discrimination in employment because of race, creed, color, national origin, sex, disability, age, marital status, or past convictions (although the nature of the conviction may limit the individual's eligibility for positions in certain industries or worksite locations).

- In addition to program eligibility requirements, consideration will be given to: the skill requirements of the occupation; the academic and occupational skill level of the participant; prior work experience; and the candidate's IEP.

- An assessment tool such as NYS JobZone or O*Net may also be utilized to assess the candidate's skills, interests, career goals and employment objectives and to aid in identifying skills gaps the candidate may have for a particular position.

These steps will ensure both the *eligibility* of the participant/trainee and the individual's *suitability* for OJT with the employer in question.

IV. REIMBURSEMENT

All OJT contracts will utilize the following guidelines :

- Will reimburse up to 50% of a wage rate (*except as noted in supplemental section on pg. 6*)
- May be written for a minimum of thirty (30) days and a maximum of nine (9) months.
- May only be written for a position that provides a minimum of 35 hours of work per week, but will NOT reimburse for any hours over 40, or for Holiday, Vacation, Sick, or Commission pay. (*except as noted in supplemental section on pg. 6*)
- Position must have a starting wage at the current minimum wage or above. (occupations adding commission, tips, bonus, etc. paid to supplement a salary below the current minimum wage will be ineligible for OJT reimbursement).
- Trainee must be a direct hire, no hires through a third party contractor may be considered.
- Maximum training reimbursement per individual is currently capped at \$5,000.00 (*except as noted in supplemental section on pg. 6*)
- No allowance or reimbursement is currently given for work-related items such as tools, equipment and uniforms; nor are needs related payments made to participants or businesses allowed.
- Both employer and trainee will be informed of WIOA grievance and discrimination complaint procedures.

- Contract must be executed *BEFORE* the trainee may begin:
 - Completed Contract containing the company's information, supervisor/trainer, length of contract, wage and total reimbursement amounts and process, trainee's name, position, starting wage, plus eligibility and assessment / IEP information as well as a fully developed Training Outline, a Collective Bargaining agreement (if applicable) and all required assurances or attachments must be approved by the LWDA staff and Program Manager prior to approval and signature of LWDB Executive Director (or designee).
 - LWDA staff must meet with the Company representative to review all contract requirements and expectations, at which time the contract is signed by authorized company representative.
 - LWDA staff must also meet with the trainee to review the establish Training Outline and formally enroll the trainee into the OJT.
- Contract terms and conditions may not be altered without the creation of a contract amendment outlining the change and the reasoning for it. The amendment must then be approved by the LWDA staff. Approved amendment must be signed by the LWDB Executive Director (or designee) as well as the appropriate company representative before considered to be in effect. The executed amendment will be added to original contract. Changes initiated by the Company representative will not receive consideration AFTER such time as the mid-point training progress evaluation is reviewed and signed by both the company representative and the LWDA staff.
- Counseling is part of the OJT program and the company will be notified that LWDA staff may visit the trainee at the work site for counseling purposes if there is a perceived need for it as indicated by periodic discussion with the trainee and/or the company representative. Since time spent in counseling will be considered part of the OJT training, no special reimbursement will be permitted.
- LWIA staff record all contact and services provided in OSOS

V. OJT REIMBURSEMENT CLAIMS

- The LWDA's Fiscal department will review and process all requests for reimbursement along with documentation and accompanying completed OJT Reimbursement Claim Forms before issuance of payment.
- Contractor shall be notified in writing via the contract itself that **failure** to submit a final OJT Reimbursement Claim Form with complete back up documentation (time records, payroll information, etc.) WITHIN FORTY FIVE (45) CALENDAR DAYS of the completion of the training period or of the termination of any employee covered under the OJT Agreement will result in the forfeiture of the balance of the payment due under the Agreement to the Contractor.
- A minimum of eighty (80) contracted training hours **MUST** be completed before reimbursement agreement will be in effect. Training contracts voided before 80 training hours are completed will **NOT** be eligible for reimbursement.

VI. MONITORING

Contract Monitoring will take place throughout the OJT process following the OJT Monitoring Procedures.

VII. SUPPLEMENTAL INFORMATION FOR SPECIFIC OJT FUNDING SOURCES:

Trade Act Adjustment OJT

- Maximum Training dollars per eligible trainee is capped at \$20,000 if the total training period is more than 52 weeks, and \$10,000 if the training period is 52 weeks or less.

National Emergency Grant (NEG) OJT

- Program Eligibility requirements:
 - OJT/NEG program provides funding for OJT with private for profit and not -for- profit businesses. They cannot, however, be used to fund OJTs with public entities, gambling establishments, swimming pools, aquariums, zoos and golf courses.
 - Eligible participants must; be enrolled in the WIOA Dislocated Worker program, have a dislocation date of January 1, 2008 or later, be long term unemployed (27 weeks or longer), and have a skills assessment through JobZone
 - To qualify for NEG OJT reimbursement, a position must be full time (minimum of 30 hours per week), and pay an hourly wage between \$9.00 and \$24.42 (NYS average wage rate), OR if the position pays more than the state's average wage, the reimbursement would be based on the state average and not the actual wage paid.
 - Reimbursement can be for a maximum of 6 months
 - Chautauqua has been granted a reimbursement waiver based on company size, so potential OJT reimbursement rate will be based on size as indicated by company's answer on Preliminary Business Application question 3c:
50 employees or less = 90% 51 – 250 employees = 75% 251+ employees = 50%
- NOA request & de-obligation process:
 - To initiate a Notice of Obligational Authority (NOA) submit a completed request form to labor.sm.OJT-NEG@labor.ny.gov with the subject line NOA Funding for [Company name] and in the body of the e-mail put the trainee's name.
Approval must be received before OJT contract can proceed.
 - To de-obligate funds, send an e-mail to oijt-neg@labor.state.gov with the subject line OJT/NEG Deobligation – [Individuals name] and in the body of the e-mail put the amount to be deobligated