

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

Policy Number: BGWIOA-N16-T3

Effective Date: December 14, 2016

Applies to: Adults, Dislocated Workers, Older Youth

- 1) **Purpose:** The purpose of the OJT program is to enable a WIOA participant to learn a job skill or qualify for a specific occupation through demonstration and practice. The training program is developed through the On-The-Job Training Agreement with either private, private nonprofit, or public employers. The employer agrees to hire and train the OJT participant, with the intention of retaining them as a regular employee after the completion of training.

OJT agreements must ensure that WIOA participants are provided a structured training opportunity in which to gain the knowledge and competencies necessary to be successful in the occupation in which they receive training. OJT Training Agreements and required attachments must identify the occupation, the skills to be learned, and the length of time the training will be provided.

- 2) **Background** The Bluegrass Area Development District workforce services staff on behalf of the Bluegrass Workforce Innovation Board (BGWIB), will develop and negotiate OJT agreements based on the information provided in this policy. **Priority will be given for development of OJT agreements with private employers with an emphasis on target industry sectors.**

- a) OJT agreements shall be offered only to positions that offer:
 - i.) "In-demand" or "high demand" sectors as determined by the Bluegrass Workforce Innovation Board.
 - ii.) Wages and benefits that lead to family self-sufficiency;
 - iii.) Ensure long-term self-sufficiency for their employees;
 - iv.) Exhibit a strong pattern of union-management cooperation.

3) **Definitions**

- a) High Demand or In-Demand – Those occupations which meet the following three criteria as set by the BGWIB: projected growth rate, projected number of new jobs added, and median annual earnings.
- b) On-the-Job Training – A training option designed to be conducted in the high skill, demand-driven occupations appropriate for the WIOA participant. It is not subsidized employment for low-skill occupations that need very little training time.

4) **Requirements**

- a) Potential employees may be recruited by the employer or referred by Kentucky Career Center – Bluegrass staff. Eligibility for WIOA services must be determined. No eligible employee can be hired using an OJT until contract effective date has been determined and contract signed.
- b) OJT is only appropriate for the length of time necessary for the WIOA participant to be trained in the specific occupation, but **not to exceed 24 weeks.**
- c) OJT agreements may be written for eligible **employed workers** when:
 - i.) the employee is not earning a self-sufficient wage as determined by the Bluegrass Workforce Innovation Board (BGWIB),
 - ii.) the required rules, regulations, and policies of the WIOA, Public Law 110.28 are met, and 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 BGWIB.

- d) Agreement negotiations must be conducted with the employer/owner or a person who has the authority to act on behalf of, and make decisions for, the company. The negotiation process must include a review of all OJT rules and regulations in order to lessen audit exceptions and problems of non-compliance with the laws and the agreement rules.

5) **Employer Eligibility**

The following list provides means for determining an employer's eligibility for an OJT agreement:

- a) In all cases the final selection (hiring) of the employees will be left to the Employer. However, the employer will give special consideration to the hiring of qualified disabled veterans, Vietnam Era veterans, and recently separated veterans.
- b) The employer must be located in one of the seventeen counties of the Bluegrass Workforce Area. An employer located in a Kentucky county outside of the area may be eligible if the OJT employee is a resident of the Bluegrass Workforce Area. The employer has been in operation for at least six (6) months at the location where the trainees will be working.
- c) Working Conditions and Labor Laws: OJT trainees must be subject to the same personnel rules, working conditions and benefits as regular employees 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. If the trainee will not be covered by the required benefits, an agreement **cannot** be written.
- d) The employer has a bona fide job vacancy and/or is able to give a specific date for expansion of the workforce.
- e) The employer agrees to retain the employee after completion of the training period provided the trainee satisfactorily completes the training. This does not preclude the employer from terminating a trainee that is determined to be unable to master the training or dismissing him/her for what the employer deems good cause.
- f) No employer may hire a WIOA participant to train under the OJT Program if a member of that person's immediate family is engaged in an administrative capacity for that employer.
- g) The employer must certify that neither the employing company nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or excluded from participation in the OJT Program by any Federal Department or Agency.
- h) It is intended that OJT assistance be available only to those employers who provide year-round employment. No intermittent, seasonal, or temporary work will be allowed through an OJT agreement.
- i) The employer must not be in violation of Local, State, or Federal labor laws.
- j) The employer is experiencing no current abnormal labor conditions (i.e., strike or lockout in the occupations considered for the OJT).

No WIOA participant shall be employed or job opening filled when:

- i.) any other individual is on layoff from the same or any substantially equivalent job or to reduce the hours of those employed workers below their normal work schedule, or
 - ii.) for a position which will deny a current worker promotional opportunities, or
 - iii.) when the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a participant whose wages are being subsidized.
- k) The employer has not previously abused or misused federally funded OJT programs as a means of subsidizing his/her payroll and/or by his/her failure to operate such programs in compliance with applicable agreement rules and regulations.
 - l) If the employer has entered into an agreement with a temporary staffing agency with the intent of transitioning those employees to permanent status with that employer, an OJT agreement is possible if the new employee needs additional training or is hired into an entirely new occupation.

- m) Highly mobile, highly competitive industries where minimal training is required will be considered on an individual basis.
- n) Industries with a substantial number of experienced and able workers presently unemployed and available to fill job openings, with no extraordinary amount of training, will not be eligible.

6) **Occupational Eligibility**

OJT agreements shall be offered in those occupations that provide opportunities not otherwise available to participants. The jobs shall lead to self-sufficiency and provide upward mobility.

Occupations that are eligible for OJT agreements include:

- a) Occupations where there is a demonstrated need for qualified workers in the occupation and offer a reasonable expectation of employment after the training period.
- b) Occupations that are for full-time positions. For definition purposes, full-time employment is a **32-hour week**, except where fewer hours are "normal" to the occupation, but no less than thirty (30) hours per week. Persons with disabilities, older workers, or other persons that specifically need to work fewer hours, may be exempt from the general rule if documented in the IEP (Individual Employability Plan). Reimbursement for each participant will be limited to a maximum of 40 hours per week. Any time worked above 40 hours cannot be submitted but does limit the participant from working more than 40 if required. Participants in OJT shall be paid the same wages as other workers in the same or similar jobs, but in no event shall it be less than \$10.00 per hour.
- c) Occupations that meet prevailing standards with respect to wages, hours, and conditions of employment.
- d) All employees under the On-The-Job Training Program will be subject to the same company rules and regulations as any other employee. They shall be covered by worker's compensation in compliance with Kentucky Revised Statutes. All fringe benefits and working conditions that are extended to other employees, in similar or equal positions, shall be extended to all trainees. The employer will be required to furnish all necessary materials, equipment, and supplies as needed to complete training, as they would for any other trainee.
- e) Occupations that are not eligible include, but are not limited to:
 - i.) Occupations dependent on commission as the primary source of income (this does not include those jobs which have a guaranteed base wage of at least the federal minimum wage in addition to commission pay and such guaranteed wage will continue after the training period. In any event the total base wage plus commission should be at least the minimum OJT starting wage rate established by the BGWIB).
 - ii.) Intermittent, seasonal, or temporary occupations.
 - iii.) Occupations that involve political or religious activity.
 - iv.) Occupations experiencing or having a large turnover in employees and highly mobile, highly competitive industries where minimal training is needed. Such occupations are customarily in low skilled or unskilled jobs, which require only short demonstration in order to perform the job tasks. Examples include but are not limited to fast food and some retail sales jobs.
 - v.) Industries/occupations in the local labor market with a substantial number of experienced and able workers presently unemployed and available to fill job openings with no extraordinary amount of training.
 - vi.) Occupations to be included under a leasing contract, whereby staff of the leasing contractor fills job openings for a particular occupation at a business facility.
 - vii.) Establishments relocating from one area to another within the previous six (6) months unless it is determined that such relocation will not result in an increase in unemployment in the area of the original location or any other area.
 - viii.) Occupations where adequate supervision and/or monitoring is not available.

- f) Apprenticeship Occupations: When training is proposed for apprenticeship occupations, the BGWIB will notify the Bureau of Apprenticeship and Training representatives regarding the linking of the OJT with apprenticeship training. For a complete listing of apprenticeship occupations, consult the listing of Occupations Recognized as Apprenticeable by the Bureau of Apprenticeship and Training.

7) **WIOA Participant Eligibility**

- a) No person should be trained who has the basic skills and knowledge required for satisfactory performance in said occupation(s). This determination will be accomplished thru testing by WIOA Staff or appropriate required WIOA agency.
- b) No WIOA participant who is to be hired into a training position under an OJT agreement may be employed by the OJT employer prior to the effective date of the agreement or prior to the date of WIOA-eligibility determination. If funds are limited, WIOA-eligible participants must meet required priority status for service.
- c) NO OJT participant may be a member of the subcontractor's immediate family. For the purposes of this policy "immediate family" shall mean as spouse, children, parents, siblings, grandparents, grandchildren and immediate in-laws (same relation to spouse as identified for employee).

8) **Negotiation of Contracts**

- a) After the employer and occupational guidelines are met, Kentucky Career Center – Bluegrass Business Services Specialist may negotiate the terms of an OJT agreement and complete the OJT Employer Checklist. This checklist will provide the information for completing the agreement. The original OJT Employer Checklist shall become a part of the agreement file. It is imperative to cover the terms in the OJT agreement with the employer prior to submitting the contract to BGWIB for consideration.
- b) The employer must provide Worker's Compensation Insurance. If the employer does not have the coverage, an agreement will not be negotiated.

9) **Guidelines**

- a) Maximum number of OJT training positions allowed per employers:
- Companies with 1 to 4 employees - WIOA OJT contracted positions will not exceed one (1) at any time;
 - Companies with 5 or more employees - WIOA OJT contracted positions will not exceed a ratio of 25% of the employer's total number of employees at any given time;
- b) Training Outline: The job description must accurately reflect the duties of that job -- not just what is listed in O'NET or the Dictionary of Occupational Titles.

The Training Outline should identify skills to be acquired for the actual job and they should be converted into action terms. Example: a job description that originally says "typing, filing, data processing on the computer" should be revised to read "Learn to type business letters and business reports on a computer. Learn to maintain an established filing system. Learn the basics of Microsoft Office programs".

Training outline and job description with number of hours to achieve job entry level skill will be provided by employer. The Business Services Manager will assure that these are in compliance with Board policy.

- c) Length of Training: An OJT agreement is 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 training, consideration should be given to the skill requirements of the occupation, the transferrable skill level of the participant, prior work experience, and the participant's Individual Employment Plan. **No training period can be more than 24 weeks.**

Training Outlines are used to summarize the specific skill requirements for an employer-based training program. They are also used as an assessment tool to document which skills the trainee lacks at the start of training and help measure skill attainment during the course of training.

- d) Employee/Trainee Wages: WIOA Participant in an OJT slot shall be paid the same wage as other workers being hired for the same or similar job but in no event shall it be less than \$10.00 per hour.

If the proposed training is for a salaried position, determine an hourly rate for OJT agreement purposes by dividing the salary for one-pay period by the expected number of hours to be worked in that pay period. Be sure that the hourly rate in this calculation at least meets the \$10.00 per hour rate for the BGWIB OJT Agreement.

To determine the OJT reimbursement rate, divide the actual hourly wage by 2. Always round down to be sure the reimbursement rate does not exceed 50 percent of the employee/trainee's hourly rate of pay. Example: Hourly rate of pay is \$10.55 divided by 2 equals \$5.275. The OJT reimbursement rate would be \$5.27 after rounding down.

Agreements should not be modified to accommodate wage increases after the agreement beginning date. Usual and customary wage increases are between the employee and the employer and should occur outside of this agreement. Reimbursement to employers shall be made only for actual OJT training time and shall not include reimbursement for wages paid to WIA participants for holidays, sick leave, vacation time, etc.

Note: The Bluegrass Workforce Area establishes a minimum wage level that an agreement may be written for. This will be increased periodically based on wage levels and labor market intelligence in the regional labor market.

10) Writing an OJT Agreement

- a) OJT Master Agreements are to be completed by using the On-the Job Training Agreement. The OJT Requirements are a part of the agreement. The Master Agreement shall be written for no more than twelve (12) months, but expiring June 30 of each year, and will allow additional OJT trainees to be added by completing only the OJT Training Outline on each trainee. This will alleviate the duplication of having to complete an Agreement and Employer Checklist each time an OJT trainee is hired during the year.
- i.) The business/company name should be listed as the Employer. The employment date of an OJT employee cannot be prior to the effective date of the agreement.
 - ii.) General information, such as name, address, phone, etc. should be listed for the Fiscal Agent of the BGWIB and the employer. Employer information such as the Federal ID#, State UI#, and Workers Compensation # and insurance provider will be listed in the Employer Checklist.
- b) If the business is unionized, an authorized representative of the union must submit a letter or statement of concurrence to be attached to the OJT Agreement. OJT agreements may not be written with employers who are currently involved in a labor dispute.
- i.) No WIOA funds under this contract will be used to assist, promote, or deter union organizing.
 - ii.) No OJT shall be written that would impair an existing contract for services or collective bargaining agreement, or be inconsistent with the terms of a collective bargaining agreement without the written concurrence of the labor organization and employer concerned.
- c) No WIA funds under this contract will be used in relocation of the WIOA employers business, or parts thereof, from one area to another unless such relocation will not result in an increase in unemployment in the area of original location or in any other area as determined by the Secretary of the U.S. Department of Labor.
- i.) No currently employed worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits).
 - ii.) No participant shall be employed or job opening filled (A) when any other individual is on layoff from the same or any substantially equivalent job, or (B) when the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a participant whose wages are subsidized under this Act.

- d) No jobs shall be created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals.
- e) Skills to be learned, starting and ending capability and other general information will be entered on the OJT Training Outline. The job skills to be learned must accurately reflect the duties of the job.
- f) Signatures - An authorized representative from the business must sign two (2) copies of the OJT Agreement. When the agreement is submitted to BGWIB for review and approval, the BGWIB Executive Chair's signature will be secured.

11) **Agreement Approval**

- a) Two (2) copies of the OJT Agreement and any attachments must be submitted to the BGADD workforce staff for review to ensure OJT policy compliance before the agreement is submitted to the BGADD Workforce Services Director for funding approval and signature. Any employer invoice that include more than one OJT individual and totals more than \$20,000 will require approval and signature of both the BGADD Workforce Services Director and the BGADD Executive Director.
- b) OJT contracts should not be entered into with employers who received payments under WIOA or the Workforce Investment Act and have exhibited a pattern of failing to provide on-the-job training participants with continued long-term employment as a regular employees with wages and employment benefits and working conditions on the same level and to the same extent as other employees working with a similar length of time and doing the same type of work.

12) **Agreement Modifications**

- a) Agreements may be modified by completing the On-the-Job Training Agreement Modification Form. Agreement modifications may be necessary for the following reasons:
 - i.) The ending date of the agreement may be extended for a participant or participants to complete their training program.
 - ii.) Amendments may be needed to correct errors in the original agreement. Such revision should only be technical in nature and not change the scope of the agreement.
 - iii.) The OJT employee may be given responsibilities beyond the original scope of work thus allowing for additional training time.
 - iv.) Agreement modifications to de-obligate encumbered OJT agreement funds may be unilateral and do not require the signature of the OJT employer.
- b) Modifications to OJT agreements will not be allowed for the following reasons:
 - i.) To change the level of reimbursement as a result of a wage increase;
 - ii.) To change the beginning date of the agreement.

13) **Reimbursement Procedures**

- a) The employer is responsible for the actual payment of wages and any costs associated with fringe benefits. The BGWIB's financial staff will then reimburse the employer for the WIOA participant based on actual payroll records.
 - i.) On-the-Job Training (OJT) agreements are designed to compensate the employer for the extraordinary costs associated with training an employee.
 - ii.) WIOA allows the BGWIB to set policy that allows reimbursement of up to 50% of the OJT employee wage rate to employers for the cost of training.
 - iii.) The BGWIB may increase the reimbursement rate for OJT contracts to 75% when taking into account the following factors:

- The characteristics of the participants taking into consideration whether they are “individuals with barriers to employment,”;
- The size of the employer, with an emphasis on small business;
- The quality of the 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 BGWIB may determine to be appropriate, which may include the number of employees participating, wage and benefit levels of the employees (both at present and after completion), and relation of the training to the competitiveness of the participant.

The BGWIB must document the exact factors, numbers, percentages, etc., used when deciding to increase the wage reimbursement levels above 50 percent up to 75 percent before it can be implemented.

- iv.) Regardless of the reimbursement rate the maximum amount of reimbursement to the employer will be \$8500 per trainee.
- v.) The formula to be used in determining allowable reimbursement shall be based on the agreed upon reimbursement rate of the participant's wages (excluding fringe benefits) during the training period. The OJT hourly unit cost multiplied by the allowable number of training hours provides the total allowable reimbursement for each OJT trainee.
- b) Payroll records are required as back-up documentation for the OJT invoice. The hours reported for reimbursement will only include those hours in which training actually occurred. Non-training hours for which the participant was paid (holidays, sick leave, vacation, non-job training related hours, etc.) will not be reimbursed by the BGWIB's fiscal agent.
- c) When the employer submits the OJT invoice and back-up documentation to the BGADD staff, invoices will be paid in the next regular check cycle. *Note: Any employer invoice that includes more than one OJT and totals more than \$20,000 will require approval and signature of both the BGADD Workforce Services Manager and the BGADD Executive Director. When the employer submits the OJT invoice and back-up documentation to the BGWIB's fiscal agent's office, invoices will be paid in the next regular check cycle.*
- d) Payment will be made when training is completed and the trainee is still employed. Invoice provided by Kentucky Career Center – Bluegrass Business Services staff, is to be completed with appropriate time sheets attached. Time sheets shall be signed by the employee and employer.

14) **Performance Standards**

- a) The BGWIB expects **65 percent** of all WIOA participants who enter OJT agreements to still be employed at the end of the training and **80 percent** of those still employed at OJT completion to still be employed six months after the end of the training period. It is understood that some turnover will occur, but an average of 65 percent should still be employed at the end of the training period.
 - i.) This does not preclude the employer from terminating a WIOA participant when it has been determined that he/she is unable to master the job or for good cause.
 - ii.) Other reasons a participant may not complete successfully are beyond the employers control, such as the participant quits, takes a better job, moves, etc.
- b) BGWIB will not develop an agreement with an employer who has previously exhibited a pattern of failing to provide OJT participants with continued long-term employment with wages, benefits, and working conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work.

- c) Employers who do not meet or exceed the 80% retention rate during the life of the OJT contract must, in order to continue adopt a plan of action to reach this level. The plan must be submitted to BGWIB or contract will be voided.
- d) All WIOA Performance standards must be met or exceeded based on standards currently set from Department of Labor/Office of Employment and Training, as adopted by the Workforce Innovation Board.

15) **OJT Monitoring**

- a) Monitoring of OJT agreements will be the responsibility of the Kentucky Career Center – Bluegrass Business Services staff.
 - i.) When developing the OJT agreement, the employers should be told that Kentucky Career Center – Bluegrass Business Services staff will contact them to schedule a monitoring visit.
 - ii.) Interviews will be held with the employer, the WIOA participant’s supervisor, and the WIOA participant.
- b) Kentucky Career Center – Bluegrass staff shall make contact with the WIOA participant and employer a minimum of monthly and shall record the contact in the participant’s IEP.
 - i.) The record should track the progress of training and achievement of training objectives defined in the agreement.
 - ii.) Concerns and corrective action necessary to accomplish the objective shall be recorded and appropriate action and follow-up shall be documented.

16) **Inquiries:** Questions should be addressed to the Business Services Manager or Manager of Workforce Services.