



Mid-Maryland WIOA

TO: Mid-Maryland WIOA Area Staff

FROM: Francine Trout, Director, Mid-Maryland WDA

DATE: December 16, 2015

EFFECTIVE DATE: Immediately

SUBJECT: **On the Job Training Policy**

Effective **immediately** the following On the Job Training Policy procedures are to be followed:

On the Job Training Policy

Introduction

Per WIOA Section 122 local workforce development areas may use On-the-Job Training as a tool to promote work-based training opportunities. On-the-Job Training (OJT) is a program available to local businesses. The purpose of the program is to help businesses reduce training costs in occupations where skilled, qualified employees are unavailable and promote the hiring of regular employees.

Through the OJT contract, occupational training is provided for the WIOA, dislocated worker, adult and youth participants in exchange for reimbursement. Businesses are provided a direct reimbursement of the trainee's hourly starting wage. Reimbursement is done bi-weekly and is a percentage of the trainee's wage (excluding tips, overtime, workers compensation and other fringe benefits and the availability of federal funds).

Program Guidelines

Per section 680.700 of the NPRM , OJT contracts may be entered into with an employer in the public, non-profit, or private sector. OJT contracts must NOT be entered into with an employer who has received payments under previous contracts if the employer has exhibited a pattern of failing to provide OJT participants with continued employment. OJT participants must be treated the same as similarly situated regular employees during the training period and once the OJT period has ended. There is an expectation that the OJT participant will remain

employed after the OJT period has ended. 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 individual employment plan (WIOA Section 3(44)(C)).

In Mid-Maryland, the training duration should be aligned with training requirements defined in Onet , labor market research and funding availability and limitations. In circumstances when the occupation is not available in the Onet definition then labor market research must support the duration of the OJT.

OJT contracts may be written with registered apprenticeship programs or participating employers in registered apprenticeship programs for the OJT portion of the registered apprenticeship program consistent with NPRM 680.700.

Businesses are involved in the identification of potential employees upfront. Based on the business needs the workforce center may refer a potential employee to the business for an interview. Or a business with a hiring need may refer an individual to the career center for an eligibility determination prior to hiring them. If the individual is eligible then that person may be hired under an OJT contract. Potential employees should have the basic skills required for the position. The OJT assists the businesses with the extraordinary training costs involved to train an individual to obtain a specific skillset required for the job.

Length of Training and Reimbursement Cap

OJT payments to employers are deemed to be compensation for the extraordinary cost associated with training participants and potentially lower productivity of the participants while in OJT. Employers may be reimbursed up to 50% of the wage rate of an OJT participant (WIOA Sections 3 (44) and 134(c)(3)(H)(i). Per authorization from the Mid-Maryland WDB, "The Mid-Maryland WIB [WDB] endorses County employment offices, to approve up to 75% reimbursement, through OJT dollars with appropriate guidelines and on a case-by-case basis."

Per TEGL 3-15 from the USDOL the following considerations shall be given when determining 75% reimbursement:

- The characteristics of the participants (e.g. length of unemployment, current skill level, and barriers to employment);
- The size of the employer (e.g. small and medium-sized business often have more barriers to participation at lower reimbursement rates);
- The quality of employer-provided training and advancement opportunities;

And

- Other factors may determine appropriate (e.g. the number of employees participating in the training, wage and benefit levels of the employees (both pre and post participation

earnings)), and relation of the training to the competitiveness of the participant). In Mid-Maryland, funding limits shall be as follows:

The business reimbursement for OJT is capped, so as not to exceed the states average hourly wage rate. A business may pay an OJT employee more than \$25.75 per hour but the OJT wages cannot be reimbursed at greater than \$25.75. For instance, an employee may enter an OJT at an hourly wage of \$28.75 which is \$3.00 above the wage cap. Since the average hourly wage for Maryland is \$25.75, the business may only be reimbursed up to that level. Regardless of the reimbursement amount, the business must compensate the participant at the same rate as other employees performing the same job with similar levels of training, experience and skills (DLLR Policy Issuance 2014-16). The hourly maximum reimbursement will be no more than \$12.88 per hour at 50% and \$19.31 at 75%.

Maximum employer reimbursement amounts may not exceed funding caps per individual with a maximum of \$25,000 per company in a given program year. However, exceptions to this may be approved by the WIA Director or designee with strong justification.

Business Solvency and Eligibility (Pre-Award)

Any business may participate provided it is not included in the Department of Labor's list of debarred, ineligible or suspended contractors; or not in violation of local, state or federal labor laws; or has demonstrated unsatisfactory performance on any previous training contract or does not intend to hire the participant after the successful completion of the OJT.

Individuals shall not be considered eligible for an OJT if he/she worked for the same employer in the past in the same job.

The OJT employer must be registered with the Internal Revenue Service and have an account with the Maryland DLLR, Unemployment Insurance and carry worker's compensation insurance.

The employer must be financially solvent, have adequate payroll record keeping systems that track hours worked, gross pay, deductions and net pay.

An OJT agreement will not displace any current employee or alter current employee's promotional opportunities. Nor will an OJT agreement be made with an employer who has terminated any regular employee or otherwise reduced the workforce in order to hire OJT trainees.

The employer must not have employees currently in a layoff status or be involved in a labor dispute.

The OJT agreement must not impair existing contracts for services or collective bargaining agreements. When an OJT agreement would be inconsistent with a collective bargain, the appropriate labor organization and employer must provide written concurrence before the OJT can begin. Additionally, the OJT agreement would not assist, promote, or deter union organizing.

OJT trainees may not work on the construction, maintenance, or operation of any facility that is used for sectarian activities or as a place of worship.

The OJT employer must not illegally discriminate in training or hiring on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief; and against any beneficiary of programs financially assisted under Title I of the Workforce Innovation and Opportunity Act (WIOA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIOA Title I-financially assisted program or activity.

Written Assurances – OJT contracts must include several standard assurances that are designed to acknowledge a contractor's responsibilities in accepting public funds for training. The assurances should address these issues:

1. At the end of the training period, the employer intends to retain the trainee in the occupation and compensate the trainee for at least the hourly wage rate specified in the contract agreement.
2. Individuals in on-the-job training must be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.
3. Funds provided to employers for OJT must not be used to directly or indirectly assist, promote or deter union organizing.
4. The employer will provide worker's compensation coverage for the trainee and abide by health and safety standards established under State and Federal law.
5. The trainee will not conduct political or sectarian activities at work while under the provisions of the OJT contract.
6. The OJT employer must not illegally discriminate in training or hiring on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief; and against any beneficiary of programs financially assisted under Title I of the Workforce Innovation and Opportunity Act (WIOA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIOA Title I-financially assisted program or activity.
7. The employer certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract by any Federal department or agency.
8. The employer certifies that it will provide a drug-free workplace as defined by the Drug-Free Workplace Act of 1988.

9. The employer is in compliance with all State and local laws regarding taxation and licensing.
10. Trainees who are working as laborers/mechanics in any construction, alteration or repair (including painting and decorating) of public buildings or works must be compensated in compliance with the Davis-Bacon Act.
11. A trainee in an OJT program shall not displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).
12. The employer agrees that no trainee shall be hired into or remain working in any position when any other individual is on layoff from the same or any substantially equivalent job. An OJT trainee may not be employed in a job if the employer has terminated the employment of any regular, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy with the WIOA participant. It is not allowable for an OJT job to be created in a promotional line that infringes in any way on the promotional opportunities of current employees.
13. The contract will not encourage or induce the relocation, or an establishment or part thereof, that results in a loss of employment for any employee of such establishment at the original location.
14. Nothing in the OJT contract shall impair existing contracts for services or existing collective bargaining agreements unless the employer and the labor organization concur in writing.

References

U.S.C. § 8102, U.S.C. § 3142
WIOA Sections: 122(h)(1), 181(b)(1), 181(b)(4), 181(b)(5), 181(b)(7), 181(d)(2), 188(a)(1), 194(6)
CFR § 679.430, CFR § 683.270(c), CFR § 683.270(b), CFR § 710
(NPRM 667.274)
TEGL 6-1

**Veterans and eligible spouses will be given priority of service in time and funding.

Equal Opportunity Employer Program: As an equal opportunity employer/program; discrimination in WIA Title I financially assisted programs or activities is prohibited by federal law and Howard County Government; auxiliary aids and services are available upon request to individuals with disabilities. If you need an accommodation, please contact Stephanie Hill at 410-290-2620, TTY 410-312-0827.