

West Central Arkansas Workforce Development Board
Lisa Greene, Chair
P O Box 6409, Hot Springs, AR 71902

Policy & Procedural Guidelines for WIOA Training Services and Contracting for WIOA Training Services

Purpose:

The purpose of this policy is to provide staff with information and guidance on types of training services that may be supported with WIOA funds from the West Central Local Workforce Development Board (WC LWDB) for WIOA-eligible Adults, Dislocated Workers, and Youth, as appropriate. This policy is also intended to provide staff with information and guidance needed to develop and administer contracts, including contracts for on-the-job training (OJT) – whether for “regular” OJT or OJT as part of a Registered Apprenticeship program (RAP), customized training for employers to include incumbent worker training, and cohort-based training to include bulk training that supports the related instruction component of a RAP. The training services appropriate for contracting are to be contrasted with training supported by an Individual Training Account (ITA).

Historically, the utilization of OJT has been quite limited in the WC LWDB, with the majority of WIOA training dollars supporting various work experiences and institutional types of training. However, the WC LWDB and West Central Arkansas Planning and Development District, WC LWDB’s service provider and contracting entity, recognize the value of OJT, including OJT that is part of a RAP. Therefore, this policy and procedural guidance significantly expands the work-based learning opportunities for the WC LWDB, its staff, local businesses, communities, and job seeking customers.

It is understood that it would be impossible to address all the questions, concerns, and possible iterations. WIOA staff is responsible for submitting, in writing, any questions, concerns, or issues to the WIOA Coordinator for a written response.

References:

- Workforce Innovation and Opportunity Act (WIOA) Statute, Title I, P.L. 113-128.
- Workforce Innovation and Opportunity Act (WIOA) DOL-Only Final Regulations, FRN Vol. 81, No. 161, August 16, 2016.
- Most recent version of relevant ADWS policies.
- TEGL 13-16, *Guidance on Registered Apprenticeship Provisions and Opportunities in the Workforce Innovation and Opportunity Act (WIOA)*. 12 January 2017. U.S. Department of Labor, https://www.dol.gov/sites/dolgov/files/ETA/advisories/TEGL/2017/TEGL_13-16.pdf.
- TEGL 19-16, *Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules*. 1 March 2017. U.S. Department of Labor, https://www.dol.gov/sites/dolgov/files/ETA/advisories/TEGL/2017/TEGL_19-16.pdf.
- TEGL 8-19, *Workforce Innovation and Opportunity Act (WIOA) Training Provider Eligibility and State List of Eligible Training Providers (ETPs) and Programs*. 2 January 2020. U.S. Department of Labor, https://www.dol.gov/sites/dolgov/files/ETA/advisories/TEGL/2020/TEGL_8-19.pdf.

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- TEGL 8-19, Change 1 (pertaining exclusively to Registered Apprenticeship). 17 May 2021. U.S. Department of Labor, https://www.dol.gov/sites/dolgov/files/ETA/advisories/TEGL/2021/TEGL_8-19_Change-1.pdf.
- TEGL 21-22, *Increasing Equitable Service Access and Employment Outcomes for All Jobseekers in Workforce Innovation and Opportunity Act Adult and Dislocated Worker Programs*. 9 June, 2023. U.S. Department of Labor, <https://www.dol.gov/sites/dolgov/files/ETA/advisories/TEGL/2022/TEGL%2021-22/TEGL%2021-22.pdf>.
- On-the-Job Training (OJT) Toolkit (2020). U.S. Department of Labor, <https://ion.workforcegps.org/resources/2017/12/01/11/19/On-the-Job-Training-Toolkit>.
- Work-Based Learning Desk Reference (2017). U.S. Department of Labor, <https://ion.workforcegps.org/resources/2017/07/14/09/08/Work-Based-Learning-Desk-Reference>.

WIOA Training Services Appropriate for Contracting:

- **On-the-Job Training** or OJT is training by an employer provided to a paid participant while engaged in productive work in a job that— (A) provides knowledge or skills essential to the full and adequate performance of the job; (B) is made available through a program that provides reimbursement to the employer of up to 50 percent of the wage rate of the participant, except as provided in section 134(c)(3)(H) of WIOA, for the extraordinary costs of providing the training and additional supervision related to the training; and (C) is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate. Practically speaking and for the purposes of this policy, there are two types of OJT – ‘Regular’ or ‘standalone’ OJT and OJT as part of a Registered Apprenticeship program (RAP). Both types are appropriate training services for contracting.
- **Customized Training** is training designed to meet specific requirements of one or more employers, which is conducted with employer commitment to employ individuals upon successful completion, and wherein employers pay a significant portion of the cost. Customized training could potentially involve new recruits or those already in the employer’s workforce. The latter is referred to as Incumbent Worker Training.
- **Incumbent Worker Training** or IWT is a type of customized training emphasized under WIOA insofar as stipulating that up to 20% of local Adult and Dislocated Worker funds may be utilized to pay the federal share of the cost of training. IWT can be used to help avert potential layoffs or increase skill levels of employees (i.e., skill upgrading) so they can be promoted and create backfill opportunities. Based on the WIOA statute at Section 134(d)(4), employers are required to pay a significant cost of the training for those participants in IWT; the minimum amount of employer share in the IWT depends on the size of the employer. Also see guidance provided in TEGL 19-16. For instance, if IWT is being provided to a cohort of employees, not every employee in the cohort must have an established employment history with the employer for 6 months or more if the majority of employees being trained meet the employment history requirement.

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- **Cohort-Based Training** is occupational skills training provided to a cohort (e.g., a class) of individuals. Per TEGL 13-16, a contract for cohort-based training may be appropriate, such as in the case of a RAP, to support the *related instruction* component of the program. Rather than individual ITAs to support a cohort of WIOA-eligible individuals following the same training plan (per the “Standards of Apprenticeship”), a contract vehicle should be utilized.
- **Bulk OJT Contracting** can support regular or standalone OJT but is often most appropriate when supporting the OJT component of a RAP because, for instance, the participants/apprentices are following the same work process schedule (i.e., the phrase used for the OJT component) for the same occupation. A bulk OJT contract provides an opportunity for staff to write one contract for multiple individuals with the same employer vs. having to develop a separate contract for each individual.

Policy and Approval of Contracts:

The WIOA Coordinator has the authority to approve/disapprove contracts as submitted by local WIOA staff. If an entity requesting funding is not approved for a contract (such as an employer seeking a customized training contract), the entity may appeal the decision to the West Central Local Workforce Development Board (WC LWDB).

WC LWDB members are not prohibited from participating in contracted training approaches as defined in this policy. Since the WC LWDB does not vote on specific OJT contracts, for instance, there is no conflict of interest in that all employers must meet the same requirements to participate. However, for any member who has had or may have an interest in participating, they must recuse themselves from voting on any policy related to training contracts.

General Contracting Parameters

1. No employer violating local laws, State laws, Federal laws, or WIOA policies and procedures is eligible for WIOA funding assistance.
2. No contracts will be negotiated with employers on strike, lockout, or general layoff. If a contract has been negotiated and one of these circumstances occurs, the contract will be terminated.
3. No contracts will be negotiated with employers in industries demonstrating excessive labor turnover in their employment histories.
4. All contracts must be signed by the designated WIOA staff and the employer or other entity receiving WIOA funding (e.g., related instruction provider). A copy of the executed contract will be provided to the contracted entity, and the original contract will be submitted to the Fiscal Department, and a copy will be provided to the WIOA Coordinator.
5. All contracts will be subject to monitoring by WIOA staff, although a staff person other than the staff involved in negotiating the contract will conduct the monitoring. Monitoring will include an assessment of appropriate documentation depending on the type of contract (e.g., time and attendance documentation will be monitored for regular OJT contracts).
6. To avoid the appearance of a conflict of interest, WIOA staff who occupy a managerial or decision-making role will not negotiate a contract if a relative of that staff person in the managerial or decision-making role is employed with the contracted entity; a different staff person will negotiate the contract in this circumstance.
7. The employer must agree to cooperate with monitoring efforts as required by WIOA legislation as specified in the contract.

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Parameters for Regular OJT Contracting

1. The minimum length of an OJT contract will be 30 days. The number of days or hours will be negotiated with the employer based on the job description and other appropriate documentation.
2. The maximum length of an OJT contract will be six months unless a higher maximum is negotiated by the WIOA Coordinator.
3. Occupational Eligibility: OJT dollars must be used for occupations within the LWDB's targeted industries that lead to employment opportunities enabling the participant to become economically self-sufficient and which will contribute to the occupational development and upward mobility of the participant. The LWDB's targeted industry sector approach is designed to maximize impact on industries served; thus, regular or standalone OJTs may *only* be written for training in occupations within the LWDB's targeted industries, which are based on high-wage, high-growth or high demand.
4. Regular or standalone OJT contracts will not be written for low skill jobs that would generally require little or no training.
5. The employer must assure that presently employed workers will not be adversely affected by the OJT program. OJT trainees cannot be utilized to displace any currently employed workers (including partial displacement such as a reduction in hours or overtime work) or to infringe on promotional opportunities for currently employed workers.
6. A company or industry or part thereof that has relocated within the past 120 days will not be eligible for the regular OJT program.
7. The employer must have the necessary equipment, materials, and supervision to participate in the regular OJT program.
8. The rate of pay for an OJT trainee will be the entry-level wage at the place of employment but not less than the negotiated performance for the median earnings performance measure unless approved in writing by the WIOA Coordinator.
9. The employer shall have no more than 25% of its total employees as OJT trainees unless an employer has five or less employees, in which case the employer will be evaluated on a case-by-case basis.
10. When multiple OJT trainees are assigned to the same OJT employer as part of the regular OJT program, bulk contracting is preferred to achieve administrative efficiencies. A bulk contract is an OJT contract that contains a specified number of slots over a designated period. Eligible participants may be added to the contract throughout the designated time period until the number of slots are filled, although a contract extension may be appropriate. As noted earlier, a bulk OJT contract provides an opportunity for staff to write one contract for multiple individuals with the same employer vs. having to develop a separate contract for each individual.
11. Employment of OJT trainees cannot precede WIOA eligibility determination. In other words, an individual must be determined WIOA-eligible prior to becoming an OJT trainee. The employer must be informed during the negotiation process of the policy of certification prior to the OJT trainee beginning work with the OJT employer.
12. All OJT trainees will be placed on the employer's payroll on the first day of OJT. Worker's compensation coverage is required by the employer on the first day.
13. Employers will not be reimbursed for costs other than those incurred while the OJT trainee is training with the employer and engaged in productive work.
14. No backdating of an OJT trainee's paperwork is allowable and will result in a disallowed cost.
15. If an employer states that the employee has already begun work, no OJT contract will be negotiated.

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16. An OJT employer will submit appropriate documentation to staff as specified in the OJT contract.
17. The following records specific to the OJT activity will be uploaded into Arkansas Job Link:
 - Verification of WIOA Program Eligibility with dates that precede the OJT contract and employment start date.
 - Individual Employment Plan (IEP) with goals related to participating in OJT as a service.
 - Copy of the OJT Contract.
 - Copies of monthly time records and progress reports.
18. OJT reimbursements will be based on actual hours worked and will not be made for paid holidays, paid vacations, paid sick leave, overtime, jury duty, etc. Payment will be made to the employer within 15 days from the date the invoice is received by WCAPDD's Fiscal Department.

Parameters for OJT Contracting as Part of a Registered Apprenticeship Program

Registered Apprenticeship is the premier earn-while-you-learn approach to talent development. The primary component of every Registered Apprenticeship program is the OJT component.¹ Contracts that cover one or more apprentices represent an opportunity to support this evidence-based training modality. WIOA eligibility must be determined prior to entry into a Registered Apprenticeship program (RAP) and supporting an individual (i.e., an apprentice) in that program. The maximum length of an OJT contract that supports participation in a RAP will be six months unless a higher maximum is negotiated by the WIOA Coordinator.²

One of the primary differences between regular OJT contracting and OJT contracting as part of a RAP pertains to documentation requirements. Unlike the case of regular or standalone OJTs, OJTs as part of a RAP do not require the case manager or WIOA staff person to develop a training plan in concert with the OJT employer because the training plan in all RAPs is part of their *Standards of Apprenticeship*, the document that outlines the RAP, including the OJT component and academic instruction that supports it. This document contains several appendices, one of which is entitled "the Appendix A." The Appendix A portion of the *Standards of Apprenticeship* for any RAP serves as the training plan that would be attached to the OJT contract.

Documentation for OJT contracting as part of a RAP will include the Appendix A and a list of each WIOA participant who is a now registered apprentice to be covered by the contract.³

In-Demand Occupations:

On-the-Job-Training involving direct employment opportunities will be considered as having built in demand. That is, these types of programs are offered to employers who have bona-fide job openings

¹ The five components of every Registered Apprenticeship program are employer involvement, structured on-the-job learning with mentoring (which the workforce system/WIOA refers to as on-the-job training or OJT), related instruction to support the OJT component, progressive wage increases, and a national occupational credential that is both portable and stackable called a Certificate of Completion.

² Based on federal regulations (29 CFR Part 29), Registered Apprenticeship programs are at least 2000 hours in length (approximately one year). It is recognized that WCAPDD's OJT contracting will not cover the entirety of the apprentice's program.

³ The list of WIOA participants who are registered apprentices covered by a specific OJT contract is a document on employer letterhead listing the individuals and signed by the employer. The list from the employer and signed as such will be attached to the Appendix A. Both documents will be attached to the contract.

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and do not have qualified workers on lay-off from those jobs; therefore, the opening creates the demand despite possible statistical indications to the contrary.

In addition, per federal policy, Registered Apprenticeship programs (RAPs) that are taking applications because of current openings are automatically considered to be in-demand occupations without further due diligence to determine in-demand status. This includes the building trades when applications are being taken.

Documentation, including Timesheets, for Regular/Standalone OJT:

Business Services staff of the Career Centers will assist the employer in providing all the necessary information. It is the staff's responsibility to support and assist the employer with filling out the necessary paperwork, including the contract, timesheets, progress reports, etc. that support regular or standalone OJTs. It is not acceptable to send the employer the forms and expect them to fill them out. The process must be seamless and "lean" for the employer.

With assistance and training from WC LWDB contract staff, employers will complete an OJT monthly timesheet for each participant. Timesheets should be completed as follows:

1. Timesheets should be completed neatly and correctly (hours, days, signatures, etc.). Illegible and/or incorrectly completed timesheets may be returned and may delay/terminate OJT payments.
2. If errors are made, cross-outs with initials will suffice (e.g., white-out is never allowed on any documentation).
3. Copies of the employer's payroll records may be substituted for WIOA timesheets. However, these records must have all necessary information such as: employer and employee name, pay period dates and hours worked, as well as signatures of employer and employee.
4. Any documentation received must contain signatures of the OJT trainee and the employer representative. (Only the OJT trainee may sign their timesheet.)

Documentation, including Time and Attendance Records, for OJT as Part of a RAP:

Business Services staff of the Career Centers must understand the difference between regular OJT and OJT as part of a Registered Apprenticeship program (RAP). One key difference relates to documentation. As stated previously, staff do not have to develop a training plan or approve an existing training program; RAPs in Arkansas are already validated by the USDOL Office of Apprenticeship. An Appendix A, which is part of the *Standards of Apprenticeship* governing the RAP, represents the totality of the training plan (for one or multiple apprentices).

Time and attendance records, as well as progress reports to support OJT invoicing, will be obtained from the employer in a manner that minimizes employer burden and accommodates existing employer processes while supporting accountability (e.g., electronic records).

Monitoring:

Periodic contacts will be made with the employer to identify any issues. If any issues are found, a written report will be submitted to address the issues and resolutions. A final monitoring will be conducted at the end of the contract. The following items will be examined during the monitoring visit:

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1. Participants training in accordance with the job training plan in the contract.
2. Contract dates including participant's beginning and ending dates.
3. Time and attendance documentation.
4. Wages paid to trainee.
5. Trainee monitoring.
6. Other areas as determined necessary.

A staff person other than the staff who negotiated the OJT contract will perform the monitoring.



Lisa Greene, Chair

1-3-2024

Date

Approved on: _____

Attachment: Contracting Template (Forthcoming)

WDB is an equal opportunity employer and provider of employment and training services.
Auxiliary aids and services are available upon request to persons of disability.