



Bay Consortium Workforce Development Board

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Bay Consortium Workforce Development Board
WIOA ON-THE-JOB-TRAINING
Technical Assistance Guide
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I. WIOA ON-THE-JOB-TRAINING

On-the-Job-Training (OJT) is available to youth, adults and dislocated workers, as authorized in the applicable Workforce Innovation & Opportunity Act (WIOA) Service Provider Agreement. OJT is a type of training that is provided by a private, private-non-profit or public sector employer to a participant. During the training, the participant is engaged in productive work in a job for which he or she is paid, and the training provides the knowledge or skills essential to the full and adequate performance of the job.

Positive features of OJT are:

- The participant begins training as a permanent employee with the employer and is subject to the same conditions of employment as other similarly employed individuals; and
- The participant starts earning a wage immediately and receives employer sponsored benefits when they are available; benefits such as health insurance, retirement, etc.
- The participant receives training in a production setting, under appropriate supervision, gaining knowledge of the job and acquiring and applying occupational skills while performing on the job.
- Training time leads to greater proficiency in the occupation for which the training is being provided.

Training contracts are directed at employers who are able to provide occupational skill training and full-time employment that leads to self-sufficiency for the participant. Employers must agree first to hire and then to train eligible WIOA participants. A training payment is provided to the employer to compensate for the extraordinary costs of training; extraordinary costs are those associated with workplace training and additional supervision. This includes those costs the employer has in training participants who may not yet have the knowledge or skills to obtain the job through an employer's normal recruitment process.

This training payment can be paid as a monthly reimbursement. Although the employer commits to retaining the participant upon successful completion of training.

Despite the benefits accruing to employers who participate in WIOA training, the focus of the activity should be on the participant. First and foremost, it is designed to provide participants an opportunity to receive the training necessary to acquire skills and knowledge that will enable them to maintain self-sufficient employment and compete for job advancement.

A. EMPLOYER ELIGIBILITY

In general, employers are eligible to participate if they can provide high quality, occupational skill training and full-time, long-term, self-sufficient employment. Meaning, upon successful completion of training, the participant will continue his/her employment with the employer and the participant's job title, wage, working conditions and benefits will be the same or higher than those received during WIOA training. OJTs should provide participants in-demand skills with opportunities for career advancement and employers with a skilled workforce.

As stated in the OJT Contract, an employer must provide the participant with worker's compensation and unemployment insurance coverage. In addition, the employer must comply with all applicable Federal, State, and local laws and regulations, including those dealing with employment, discrimination, safety, health, the Fair Labor Standards Act, and WIOA.

Employers are not permitted to pay trainees on a piecework, flat rate, billable hours or commission basis in lieu of a regular salary or hourly wage. Such payments may be paid to the trainee as a “bonus” but would not be considered for reimbursement when determining the employer’s training payment. Training contracts that result in the participant transitioning to an occupation paying straight commission, piecework, billable hours or flat rate wages are prohibited.

Employers who have recently relocated to the area must complete a “Pre-Award Review” before they are eligible for OJT. The Pre-Award Review process is described in Section V.

If an employer fails to retain a WIOA participant the career planner must complete a “Past Performance Review” before negotiating additional OJT contracts with this employer. Past Performance Review requirements are described in Section VI.

B. PARTICIPANT ELIGIBILITY

OJT is appropriate for a participant when:

- The adult or dislocated worker participant has received at least one career service and has not been able to gain or retain employment; and
- The Employment Plan has identified employment goals and achievement objectives that support the use of OJT.
- The Youth Employment Plan identifies employment goals and achievement objectives supporting the use of OJT.

This requires an in-depth assessment of the occupational and academic skills of a participant as well as their prior work experience, interests and abilities. The unemployed participant may qualify for OJT.

An eligible, *individual* may be appropriate for OJT through WIOA when:

- The participant’s training plan supports the use of OJT,
- The position meets training requirements (hours, wages, etc.); and
- Training relates to the introduction of new technologies; or
- Training relates to the introduction of new production or service procedures; or
- Training relates to employment requiring additional skills or workplace literacy.

C. JOB DEVELOPMENT

As soon as the WIOA Case Manager determines that OJT is the best course of action for a participant, the WIOA Case manager can begin job development. Efforts may include:

- A job applicant who is referred to the WIOA program by an employer may be enrolled in OJT only upon completion of WIOA eligibility, and career services including and objective assessment in which OJT with the employer has been determined to be an appropriate activity and the employer has not already hired the individual.
- Registered apprenticeship programs or participating employers in registered apprenticeship programs for the on-the-job training portion of the registered apprenticeship program may also be considered, provided they meet OJT eligibility

criteria. Depending on the length of the registered apprenticeship, an OJT may cover some or all of the registered apprenticeship training.

Once an employer is located, the OJT Contractor works with the employer to determine specific occupational tasks and the period of time required for training. These processes are discussed below.

D. TRAINING PLAN

The skill requirements of the occupation should be examined with regard to the prior work experience, academic and occupational skill level of the participant. The OJT Contractor and employer will compare specific occupational skills that are necessary to the participant's current abilities; identifying the skills and knowledge needed for satisfactory performance in the occupation.

The Training Plan will identify the specific skills and knowledge areas that will be taught to the trainee over the course of the training contract. Once written, the Training Plan becomes part of the OJT Contract.

The OJT Contractor is encouraged to use the Occupational Summary Report available through O-Net when developing the Training Plan. A job title or occupational code can be entered at <http://online.onetcenter.org/crosswalk/> to obtain a comprehensive job description that includes: tasks, knowledge, skills, abilities, and work activities. This information can then be used to compare the participant's current skills and abilities to the specific tasks and knowledge areas that must be learned.

E. TRAINING PERIOD

The length of a training contract is limited to the period of time required for a participant to become accustomed to basic work activities in the new occupation. Seldom will the training period be adequate for full job proficiency but it should be sufficient to demonstrate competence and compatibility to the occupation. Consideration of the following factors should be used in establishing the length of training:

- The skills and knowledge requirement of the occupation,
- The academic and occupational skill level of the participant,
- The participant's prior work experience,
- The participant's Employment/Training Plan and
- The Specific Vocational Preparation (SVP) level for the chosen occupation.

1. SVP- SPECIFIC VOCATIONAL PREPARATION

The SVP time estimate is the amount of time determined by United States Department of Labor (USDOL) to be required to learn the techniques, acquire the information and develop the skills needed for average performance in a job - as it is described within the Standard Occupational Coding (SOC) structure. This coding structure is commonly referred to as SOC coding or SOC codes. Occupational preparation includes time spent in training programs, academic training, and related work experience.

<u>Level</u>	<u>Time</u>
1	*Short demonstration only
2	*Anything beyond short demonstration up to and including 30 days
3	Over 30 days, 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

*Note: Occupations with SVP levels 1 or 2 are not appropriate for WIOA sponsored OJT unless special circumstances are outlined in the Service Provider's Agreement. In such cases, instructions included in the WIOA Agreement must be followed.

SOC codes with corresponding SVP levels can be viewed on-line at www.onetcenter.org. As mentioned previously, this internet site includes a crosswalk to the Dictionary of Occupational Titles (DOT), Military Occupational Classification Codes (MOC) and Registered Apprenticeship Information System Codes (RAIS). For ease of use, it is recommended the career planner access the O-Net Center at the crosswalk: <http://online.onetcenter.org/crosswalk/>

2. 6 Month or 1040 Hour Limit

WIOA OJT contracts exceeding 6 months or 1040 hours in duration must be approved by the Executive Director, of the Bay Consortium Workforce Development Board (BCWDB).

3. Skills Gap and Progress Evaluation

The OJT Contractor must conduct a skills gap analysis for the participant in order to determine the estimated length and type of training needed for all OJT's prior to their start date, and on which progress evaluations are based. The skills gap analysis is located on Training Plan Form, under the heading Pre-Assess Skilled/Not.

F. COLLECTIVE BARGAINING

If an employer is affiliated with a labor union, the career planner should consult with the collective bargaining agent responsible for the union contract. The training description, wage rate and training arrangement should be reviewed by the agent who will be asked to sign the training contract.

II. YOUTH OJT

Youth, ages 16 to 24, also qualify for OJT. However, such training may not be an appropriate activity for youth participants under age 18, whose employability plan is focused on completion of secondary education

rather than employment. The OJT Contractor should be familiar with the state's child labor laws when developing OJT contracts for youth.

III. TRAINING CONTRACT AND PROVISIONS

Once the OJT Contractor and employer have identified the training occupation, skills to be taught, and hours of training, they should review the OJT Contract and agree upon a training payment.

Note: The business name identified on the contract should be identical to the organization, company or individual name reported to the Internal Revenue Service and identified by the IRS Employer Identification Number (IEN).

A. TRAINING PAYMENT

The employer's training payment will be submitted on a monthly basis using the Employer Reimbursement form. The participant must receive all wages for the payment period submitted. Hours (even if paid) for illness, holidays, plant downtime or other events in which no work occurred should not be considered as part of the training period. The OJT Contractor assists the employer in completing these forms, obtains appropriate signatures and mails the completed document(s) to BCWDB.

WIOA OJT payments may be reimbursed up to 50 percent of the regular WIOA Adult or Dislocated Worker participant's training wage.

The OJT Contractor must consider many factors when determining the employer's training payment. Considerations include but are not limited to: the occupation of training, receipt of an industry-recognized credential after training, the number of employees participating, the participant's work history, labor market conditions, hourly wage, fringe benefits, promotional opportunities, the career planner's overall training budget, etc. In some cases the employer's training payment may be less than 50 percent of the gross wages paid during the training period and in some cases the amount may be significantly less.

1. \$4,000 Limit

WIOA OJT payments in excess of \$4,000 must be approved by the Executive Director, of the BCWDB. The maximum wage that can be earned by an OJT participant in the State of Virginia is \$24.40 per hour as defined by the [Department of Labor: Employment & Training Administration TEGL 13-15](#).

2. Supportive Services

Supportive services may be made available to eligible WIOA participants. Said payments will be administered by local program service providers and will be based on individual need. In each case, the need will be documented in the participant's file. The BCWDB set a limit of \$1,500.00 per participant for supportive services. Refer to, [BCWDB Participant Supportive Service Policy #00-03](#) for specific guidelines on supportive services.

3. Partial Payment

A partial payment may be made for incomplete contracts when the employee voluntarily leaves employment or when the employer must terminate the individual prior to contract completion. If the employer requests monthly reimbursement using a Monthly Reimbursement Form, a final monthly invoice should be submitted after the participant receives his/her final paycheck. If the training payment is scheduled to be paid at the end of training, calculations for computing a partial payment are included on the OJT Invoice.

B. MONTHLY SALARY CONVERSION

A monthly salary must be converted to an hourly pay rate to ensure the training payment does not exceed the maximums identified above. Piece work and mileage must be converted to a monthly salary which may not fall below Federal minimum wage or above the maximum wage which can be earned by an OJT participant in Virginia. The procedure to convert a monthly salary into an hourly rate is reflected in the following examples:

\$2,000/month X 12 months = \$24,000 annual salary
standard 40 hour work week X 52 weeks = 2080 hours per year
\$24,000 annual salary divided by 2080 = \$11.54/hour

\$1500/month X 12 months = \$18,000 annual salary
35 hour work week X 52 weeks = 1820 hours per year
\$18,000 annual salary divided by 1820 = \$9.89/hour

The OJT Contractor working with employers paying employees a monthly salary should ensure that employers are made aware of their responsibilities under the Fair Labor Standards Act. Questions about overtime laws should be directed to a local Wage and Hour representative.

C. SPECIAL TRAINING

The cost of additional contract-related training (special schools, seminars, conferences) is allowable provided the employer does not normally pay for these costs and the WIOA OJT Contractor has previously approved the reimbursement. To ensure compliance and expedite payment for such training, it is important the employer discuss the situation with their OJT Contractor prior to the beginning of any special training activity.

The special training described here is not exempt from the requirements associated with standard Occupational Skills Training; specifically, the Eligible Training Provider (ETP) List.

D. GENERAL PROVISIONS

The OJT Contractor will review the General Provisions of the contract with the employer to ensure mutual understanding.

The General Provisions assure that a WIOA participant will be treated the same as a similarly situated employee. They also assure that the employer will operate according to laws governing WIOA, equal opportunity and nondiscrimination, fair labor, health and safety, among others.

E. MODIFICATIONS

On occasion, training contracts may require modification. The OJT Contract Modification should be used when a major change occurs during the course of training.

For example, a modification to lengthen an existing contract may occur when the employer needs to add responsibilities to the initial Training Task Outline or when the participant is not progressing at a rate that was anticipated when the original contract was negotiated. When necessary, an OJT Contractor may renegotiate a contract training payment and training hours within the allowable ranges described earlier in this Technical Assistance Guide.

F. EMPLOYER RECORDKEEPING

The employer will maintain all financial, attendance, and miscellaneous records relating to this contract, and will preserve the same for a period of not less than three years from the date of the final contract payment. The following is a list of records to be maintained by the employer for each WIOA participant.

- OJT Contract
- General Provisions
- Contract Modification, if applicable
- Invoice submitted for training payment
- Operational Guidelines
- Training Task Outline and Employee Evaluation

Such records will be required to be retained beyond said period if an audit by the BCWDB has begun but is not completed, or if the audit findings have not been resolved at the end of the required retention period. In such cases, the records shall be retained until resolution of the audit findings.

G. SITE VISIT & FOLLOW-UP

The training site visit is an opportunity for the OJT Contractor to provide technical assistance if necessary and ensure the participant's training is progressing as anticipated. The OJT Contractor should visit the training site at least one time early in the training period with additional visits as deemed necessary.

In addition to the on-site visit(s), regular contact with the participant and the employer is expected and should be recorded in the participant's file. At a minimum, this type of contact will occur monthly by telephone or e-mail.

Site visits and follow-up contacts should focus on the following:

- Training is occurring as outlined in the Training Task Outline,
- The employer is abiding by the terms and conditions of the contract,
- Mid and final evaluations are conducted and documented,
- Concerns or problems that might jeopardize the participant's successful completion of training are identified and resolved, and
- The OJT Contractor must follow up with the employer to ensure mid and final evaluations have been completed.

IV. PARTICIPANT FILE

When a WIOA participant is enrolled in an OJT activity, the WIOA Case Manager's participant file should include the following documents:

- WIOA Training Plan that identifies OJT as appropriate,
- OJT Contract,
- Contract Modification, if applicable,
- Invoice submitted for training payment,
- Training Task Outline and Employee Evaluation and
- Pre-Award Review, if applicable.

V. PRE-AWARD REVIEW FOR RELOCATING BUSINESSES

A contract may not be conducted for a period of 120 days with an employer who has relocated if such relocation has resulted in the loss of employment for any employee at the original location. Relocation means relocation of any part of a business from any location in the United States. The Pre-Award Review lists criteria necessary for this assessment.

The OJT Contractor will complete a Pre-Award Review with an employer interested in WIOA OJT if the employer has recently relocated; to determine if the relocation has caused a loss of employment for any employee at the original location.

The OJT Contractor may contact the WIOA representative in the labor market area from which the employer moved to verify information obtained from the employer. The OJT Contractor will evaluate the findings of the review and determine whether or not the relocation has caused unemployment at the original site.

VI. EMPLOYER - PAST PERFORMANCE REVIEW

If an employer fails to provide a participant with long-term employment, wages, benefits and/or working conditions equal to those provided to regular employees, the employer has failed the OJT contract and will not be eligible for future contracts. Such employers may be provided another opportunity to participate in training if they make a request for reconsideration and if the circumstances attributed to the failure have changed. However, an employer who exhibits or has exhibited a pattern of failure will not be eligible to participate in future OJT contracts.

A. FINDINGS

To determine a pattern of failure, the OJT Contractor must examine the following:

- number of individuals who participated in training programs;
- number of participants who completed training and continued employment with the employer;
- length of time participants were employed after training;
- average length of employment for other "new hires" in similar occupations;

- average hourly wage of participants after training; and
- average hourly wage of other individuals (similarly employed) following a length of time equal to the training received by the participants.

The comparison of WIOA participants with regular employees should provide enough information to determine the employer's success or failure with WIOA training contracts, *including previous WIOA OJT contracts*. Should these findings indicate a pattern of failure, the employer will be asked to provide a narrative explanation that may justify a lower retention rate for participants as compared to regular employees. For example, participants may have quit voluntarily or may have been terminated for cause or unforeseeable changes in business conditions.

B. DETERMINATION OF ELIGIBILITY

The OJT Contractor will record all information and make one of the following determinations:

- The Employer exhibits a pattern of failure with WIOA employees, or past WIOA employees, in providing long-term employment with wages, benefits and working conditions comparable to regular employees, but has extenuating circumstances that do not disqualify them from program eligibility; or
- The Employer exhibits a pattern of failure with WIOA employees, or past WIOA employees, in providing long-term employment with wages, benefits and working conditions comparable to regular employees and is disqualified from program participation.

A copy of the final determination will be forwarded to the BCWDB.

V. BAY CONSORTIUM ON-THE-JOB TRAINING FORMS

All forms identified on the list below are available for download on [Plans and Policies](#) section of the of the BCWDB webpage.

- BCWDB OJT Application Form
- BCWDB OJT Agreement/Contract
- BCWDB OJT Modification of Agreement/Contract
- BCWDB OJT Supportive Service Form
- BCWDB OJT General Provisions Form
- BCWDB OJT Specifications Form
- BCWDB OJT Training Plan Form
- BCWDB OJT Employer Reimbursement Form