

## Policy and Procedure

<b>Title:</b>	On-the-Job Training	<b>Number:</b>	OP-12-09
<b>Effective Date:</b>	July 1, 2012	<b>Revisions:</b>	July 25th, 2013

### **Purpose**

The purpose of this policy and procedure is to establish guidelines for the arrangement of on-the-job training contract by which an individual will learn an employment related skill or qualify for a particular occupation through demonstration and practice at an employer's site.

### **Reference**

- Federal Register [20CFR, Sec. 667.272, Sec. 667.268, Sec. 664.710]
- VCCS Policy 00-8, Virginia's Training Voucher System under WIA and Exceptions
- Workforce Investment Act [WIA Sec. 181(a)(5), Sec. 195(4), Sec. 101(31)(C)]

### **Policy**

#### **Definition**

*On-the-job training (OJT)*, as defined by VEC Policy 00-8, means:

- A. Training by an employer that is provided to a paid employee while engaged in productive work in a job; and
- B. Knowledge or skills training that is essential to the full and adequate performance of the job; and
- C. Training that provides reimbursement to the employer of up to fifty percent of the wage rate of the WIA participant, for the extraordinary costs of providing the training and additional supervision related to the training.
- D. No person or other entity may charge a participant a fee for placement at or referral to an OJT training employer.
- E. OJT training funded by non-WIA sources may allow higher rates of reimbursement in accordance with grant specifications.

### **Discussion**

#### **A. Participant Eligibility:**

1. Participants who, after assessment, and in accordance with the Individual Employment Plan (IEP), have a substantial need for OJT;
2. Employed worker(s) when:
  - a. The employee is not earning a self-sufficient wage as determined by SVWIB policy;
  - b. 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 SVWIB; and
  - c. The OJT meets the identified training needs of the participant, according to an IEP.
3. Cannot have been employed by the OJT employer in the last 12 calendar months.

#### **B. Employer Eligibility:**

1. May be in the public, private non-profit, or private sector, but not with governmental entities;
2. Must have been in business and had one, or more, employees for at least one year;
3. Must have adequate personnel to provide sufficient supervision and training;
4. Must provide a minimum of 50% of the employee's wage throughout the training period (This minimum is applicable to WIA programs only);
5. Must provide 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;

6. Must not have a history or pattern of failing to provide OJT participants with continued employment with wages, benefits, and working conditions that are equal to those provided regular employees who have worked a similar length of time and are doing the same type of work;
7. Must not have relocated from any location in the United States within 120 days, if the relocation resulted in any employee losing his or her job at the original location; and
8. Must not use OJT assignments to displace regular employees, or to replace any employee on layoff status.
9. Must be the actual employer of record for all participant wages. A temp or payroll agency may not serve as the employer of record.
10. OJT training cannot involve political activity.
11. OJT training funds cannot be used to assist, promote or deter union organizing or activity. OJT contracts shall not be provided in any occupation in which a labor union represents employees engaged in similar work without giving such organization an opportunity to comment.
12. May not be a church, synagogue, mosque, temple, or other place of worship, or conducting any sectarian activities.
13. The employer must notify the contractor representative immediately if any reduction in force is planned or takes place. The OJT contract may be discontinued if it is viewed as affecting other workers, even in an indirect manner.
14. The employer must maintain workers compensation insurance, if required by law, and shall provide assurances that they are, and will remain, in compliance with all employment tax reporting requirements.
15. Cannot be for employer occupations that have commissions as the primary source of income.
16. Cannot be for intermittent and seasonal employer occupations.
17. Cannot be for a employer position that will be converted into contractor (non-payroll) position.
18. OJT position must be full-time and also lead to a full-time position (defined as at least 30 hours per week).

C. Payments to Employers:

1. Are deemed to be compensation for the extraordinary costs associated with training participants including additional supervision, training and the costs associated with the lower productivity of the participants, and those extraordinary costs need not be documented by the employer; and
2. Must not be in excess of 50 percent of the wage rate of the WIA OJT participant. Other grants may allow a greater percentage of reimbursement to the employer.
3. Payment of can only be made for actual hours worked and paid (not holidays or paid leave).
4. If the position is paid by salary, rather than by an hourly wage, the rate shall be calculated by multiplying the monthly salary by 12, and then dividing that total by 2080, to calculate an hourly rate of pay on which to base the allowed percentage of reimbursement.

D. Duration:

An OJT contract must be limited to the period of time required for a participant to become proficient in the job for which the training is designed. In determining the appropriate length of the contract, consideration should be given to the skill requirements of the job, the academic and occupational skill level of the participant, prior work experience, and the participant's individual employment plan. An OJT contract must be written for a specific occupation. For WIA participants, the length of training must be at least 160 hours, but shall not exceed 1,000 hours, conducted over no more than 6 months of time, unless prior approval is obtained from the Operations Manager or Chief Executive Officer. Other grants may allow shorter or longer training periods. The participant's training plan shall describe the timeline for completion of the training. The program operator shall review the job duties of the position and classify the occupation for which training is being provided. The JobZone Specific Vocational Preparation (SVP) level from the Occupational Information Network (O\*NET) occupational codes shall then be used to determine the maximum length of OJT training hours allowed, based on the SVP training time estimate allowance, as provided in the chart below.

It is noted that occupations at SVP levels 1 and 2 require little or no preparation, and an OJT contract is inappropriate. Occupations at SVP levels 8 and 9 are at levels that require extensive preparation, usually in the form of Bachelor's degree or higher, educational levels. Skills and knowledge are assumed and OJT is, therefore, equally inappropriate for these types of occupations.

<b>JobZone</b>	<b>SVP Level</b>	<b>Training Time Allowed</b>
One	1	OJT Inappropriate
One	2	OJT Inappropriate
One	3	160 – 400 hours
Two	4	160 – 800 hours
Two	5	160 – 1,200 hours
Three	6	160 – 1,600 hours
Four	7	160 – 2,000 hours
Five	8	OJT Inappropriate
Six	9	OJT Inappropriate

**Procedure**

**PROCESS:**

Participants may market themselves to employers as eligible for OJT, either by their own initiative, or with a referral provided to them. The contractor may also market their clients to employers. If interested in a potential contract, the employer is to contact the Adult or Dislocated Worker program representative at the appropriate workforce center.

A review of the employer will ensure that the employer has, or forecasts, sufficient work to provide long-term regular employment for the participant. An on-site visit will ensure that the employer has the necessary equipment, materials and supervision to conduct the training. Consideration will be given to the percentage of subsidized training positions assigned to a particular business/ company. This ratio shall not exceed 20% of the employer’s workforce for employers with 10 or more employees. No more than one OJT position is allowed for an employer with less than 10 employees. A policy exception is granted for a non-WIA OJT program in which, on a case by case basis, any business can apply for an exception to the percentage of subsidized training positions assigned to that company which are above the aforementioned limits. The decision to allow that exception lies solely within the authority of the WIB CEO under advisement from the originating Project Director.

The employer will provide a job description of the occupation as performed in the company and a concise outline of the OJT to be given, tasks to be learned, and the approximate hours of training required for each task. Once this information is provided, the Adult or Dislocated Worker program operator will determine the length of the training period and the hourly wage that will be covered by the OJT contract.

If the employer is agreeable to the length of training and the covered wage, then an OJT contract will be prepared. The contract will be in the standard format issued by the SVWIB. This contract must be signed by both parties and in place prior to the start of on-the-job training for any individual. After the contract is prepared, it will be taken to the employer for their signature. After the employer has signed the contract, the appropriate WIA service provider contractor representative will sign. A copy of the signed contract will be provided to the employer. The original contract will be maintained by the issuing agency.

The employer will submit an OJT monthly progress report and invoice to the appropriate agency for review and approval. The invoice shall be based on hours worked and wages actually paid by the employer. Once the invoice is reviewed and approved by the contractor representative, that agency will then reimburse the employer for training cost. Invoices are designed to allow for flexibility in billing for wages paid for pay periods which may vary by employer and bridge calendar months.

All OJT worksites shall be open to review and inspection by local, state, and federal monitors. Program Operators will notify OJT employers of this requirement at the time of, or before, the OJT contract is put in place.

**Exceptions**

Exceptions to these policies must be requested from the SVWIB Operations Officer or Chief Executive Officer in advance of entering into any contractual agreement with an employer. Any exception must be requested in writing and contain detailed justification for the exception being requested.

