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WACCAMAW WORKFORCE DEVELOPMENT AREA INSTRUCTION NUMBER: 16-02

TO: Waccamaw WIOA Service Providers

SUBJECT: On the Job Training

ISSUANCE DATE: September 29, 2016

EFFECTIVE DATE: Immediately.

PURPOSE: To provide information and direction for the implementation of WIOA funded On-the-Job Training (OJT) opportunities for eligible Adult, Dislocated Worker and Youth program participants. Specific criteria are included to increase the amount of employer reimbursement for an OJT participant wage rate to more than 50%.

BACKGROUND

On-the-Job Training (OJT) is a training option that provides Employers the opportunity to train new employees (Trainees) on the specific knowledge or skills essential to the full and adequate performance of the job. OJT opportunities are formed through a contractual agreement between the Employer and the OJT Service Provider. The OJT Service Provider provides the Employer with a partial wage reimbursement, typically up to 50 percent of the wage rate of the participant for the extraordinary costs of providing the training and supervision related to the training. However, Section 134(c) of WIOA authorizes local boards to reimburse employers up to a maximum of 75 percent of the wage rate of an OJT participant after considering factors listed in proposed rules at [20 CFR 680.730](http://20CFR680.730) and this policy.

OJT is a hire-first program. The Trainee begins their OJT as a full-time employee of the company that has agreed to provide the on-site training and long-term employment upon completion of the OJT. The rate of pay, fringe benefits, periodic pay increases, and working conditions offered to the Trainee are the same as similarly situated employees in similar positions by the same Employer and are in accordance with Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29.U.S.C. 206(a)(a) or the applicable state or local minimum wage laws.

POLICY

On-the-Job Training must be provided through a contract that provides a structured training opportunity for the OJT Trainee to gain the knowledge and skills to be competent in the job for which they are hired. The contract must be completed and signed by the Employer and authorized signatory official of the Waccamaw Regional Council of Governments.

OJT may be combined with other WIOA program services such as work experience, classroom training or basic skills training.

An Employer may have up to five OJT Trainees at the same time provided they are not all in the same department. Written approval by the Executive Director of the Waccamaw Regional Council of Governments is required for any instances outside of this parameter.

Participant Eligibility

OJT Trainees must meet program eligibility requirements for each funding source, i.e. WIOA Adult, Dislocated Worker or Youth formula funded programs. Trainees must have received a documented assessment that results in the development of an Individual Employment Plan (IEP) that documents the participant has the interest, aptitude and skills to meet the specific Employer OJT requirements.

OJTs for Employed Workers

OJTs may be written for eligible employed workers when:

- The employee is not earning a self-sufficient wage;
- All other requirements of this policy 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, or workplace literacy. (proposed rule at [20 CFR. 680.710](#))

Employer Eligibility

The OJT Employer:

- Must be registered with the Internal Revenue Service (IRS) and have an account with the South Carolina Department of Employment and Workforce for Unemployment Insurance and carry Workman's Compensation Insurance. (proposed rule at [20 CFR 683.280](#))
- Must have operated in the Waccamaw Region for a minimum of 120 days and be current in unemployment insurance and workers' compensation taxes, penalties, and /or interest or related payment plan.
- Must be financially solvent to meet the OJT contract obligations through the end of the training and for the participant's 12 month follow up period; have adequate payroll record keeping systems that track hours worked, gross pay, deductions and net pay.
- Must not have relocated within the last 120 days, where relocation resulted in the loss of employment at the prior location. (proposed rule at 20 CFR 683.260)
- Shall not displace any currently employed worker or alter current workers' promotional opportunities. Nor have terminated any regular employee or otherwise reduced the workforce in order to hire OJT Trainees. (proposed rule 20 CFR 683.270)

- Must not be involved in a labor dispute or have workers currently in a layoff status or laid off workers over the past 120 days from the same or any substantially equivalent job. The period of 120 days may be waived if there are mitigating circumstances reviewed and approved by a WIOA Program Manager.
- Must not impair existing contracts for services or collective bargaining agreements. Must gain written concurrence with the appropriate labor organization before the OJT can begin if the OJT agreement would be inconsistent with a collective bargaining agreement. (WIOA Sec.181 (a)(2)(B). Additionally, the Employer must attest that the OJT agreement would not assist, promote or deter union organizing (20 CFR 680.850).
- Must not allow OJT Trainees to work on the construction, maintenance or operation of any facility that is used for sectarian activities or as a place of worship (WIOA Section 188 (a)(3)).
- Must not illegally discriminate in training or hiring practices because of race, color, sex, national origin, religion, disability, political beliefs or affiliations, or age (WIOA Sec. 188(a)(3)).

OJTs must not be written with an employer who has previously exhibited a pattern of failing to provide OJT Trainees with continued long-term employment. (proposed rule at 20 CFR 680.700(b))

Employer Reimbursement Rates

The employer reimbursement rates of the regular wages earned for OJTs range from a minimum of 50 percent to a maximum of 75 percent. The reimbursement rate is based on the size of the employer as follows:

- A maximum of 50 percent for large employers defined as having a 100 or more employees
- A maximum of 65 percent for medium size employers defined as having 20-99 employees and
- A maximum of 75 percent for small employers with a workforce of 1-19 employees.

Regardless of the reimbursement rate, the following factors must be considered prior to approving an OJT:

1. The characteristics of the participant(s) with an emphasis on barriers to employment as defined in WIOA Section 3(24) and listed on Attachment A;
2. The quality of employer-provided training (e.g., an industry recognized credential, advancement opportunity);
3. The number of participants the employer agrees to sponsor;
4. The wage and benefit level of the participant (both during and after completion of the OJT);
5. The OJT position is an in-demand occupation as defined by [WIOA Section 3\(23\)](#) and determined by labor market information;
6. The OJT employer is:
 - a. In an in-demand industry as defined by WIOA Section 3(23) and determined by labor market information; or

- b. In an in-balance industry as determined by labor market information; or
- c. In a declining industry, but there are compelling reasons (e.g., evidence of long-term viability of the employer) justifying reimbursement above 50 percent.

Registered Apprenticeship Programs

OJT contracts may be written with registered apprenticeship programs or participating employers in registered apprenticeship programs for the on-the-job training portion of the registered apprenticeship program.

The OJT Contract

Every OJT opportunity will include a contract (agreement) with the Employer and a Training Plan for the Trainee. The contract must include the requirements of WIOA rules and regulations; the occupation, skills and competencies to be learned; and the length of time the training will be provided. Contract modifications must be in writing, signed and dated by the Employer and the Business Services Representative.

Cost Per Participant

Subject to funding availability and the OJT Trainee's needs, the Waccamaw Workforce Development Area limits the training costs to \$5,000 for jobs paying entry level wages defined as \$ 9.00 - \$15.00 per hour and \$6,000 for higher wage jobs, defined as paying more than entry level wages. Training costs in excess of these limits may be approved by the Waccamaw Workforce Development Board or the authorized WIOA Service Provider, under special circumstances. Regardless of the hourly wage, training duration is limited to not less than four weeks and not more than 26 weeks. Training duration must be in line with [Specific Vocational Preparation \(SVP\)](#) estimates.

WIOA participants who have utilized the maximum allowed under the Waccamaw Workforce Development Area's most current ITA Policy may also qualify for an OJT with training cost and duration limits described above.

Overtime Hours for OJT

OJT payments may only be paid for regular wages paid by the employer. Payment may not be based on overtime, shift differential, premium pay and other non-regular wages. This does not preclude a participant from working overtime; however, the employer is responsible for all overtime pay.

Determining Training Duration-Specific Vocational Preparation (SVP)

Training will be limited to the period of time required for a Trainee to become proficient in the position related to the training plan. The Waccamaw Workforce Development Area limits the training duration to not less than four (4) weeks and not more than 26 weeks. Training duration is negotiated with the Employer on the basis of the skills that need to be learned to perform the job at a level comparable to an employee who would be hired without the need for OJT. An upper limit for training duration is established using

the Specific Vocational Preparation (SVP) estimates for occupations in the U.S. Department of Labor at <http://www.occupationalinfo.org/appendxc 1.html#II>.

PROCEDURES

Participant Case File

All documentation relative to the selection of a candidate for an OJT opportunity and the development and maintenance of the participant's OJT Training Plan should be included in the participant hard or electronic case file. Participant files must be available to federal, state and local monitors for compliance review.

Employer Files

OJT Service Providers are required to keep an individual file for each OJT Employer which includes the Employer Pre-Screening Checklist verifying employer eligibility. Employer files must be available to federal, state and local monitors for compliance review.

Monitoring

Monitoring at the local, state and federal level will include the OJT Service Provider's oversight of the participant training and corresponding employer payroll records.

On-site monitoring visits should be conducted by the contract manager.

Effective monitoring also includes desk review of correspondence from the employer, including OJT reimbursement invoices and required documentation to support those invoices.

Contract managers must regularly review each Trainee's progress in meeting program and service strategy objectives, including the Trainee's acquisition of basic/occupational skills and the adequacy of supportive services provided as related to OJT.

Any deviations from the OJT Contract should be dealt with and documented promptly.

Exceptions

Any exceptions to this policy must be approved by the Waccamaw Workforce Development Board or the authorized representative of the WIOA Service Provider and documented in both the Trainee and Employer files. Exceptions may be allowed for: Employers new to the Waccamaw Region; Employers with workers in lay-off status less than 120 days; Training plans exceeding the cost or time limits or other policy statements not contained in the WIOA or WIOA regulations.

DEFINITIONS

OJT Agreement/Contract: The OJT Agreement or Contract includes all of the basic requirements including applicable laws, regulations and policies; outlines the appropriate steps for OJT implementation; and is

specific to the individual training plan. At a minimum, the Agreement must include an extensive set of general provisions (Terms and Conditions) ensuring WIOA rules and regulatory compliance; the occupation, skills and competencies to be learned; and the length of time the training will be provided. All parties including the Employer and authorized signatory official of the Waccamaw Regional Council of Governments must sign the Agreement.

Trainee: The OJT Trainee is an eligible WIOA participant who has demonstrated the skills, abilities and interests to successfully participate in an OJT with a specific Employer. The Trainee must have received a documented assessment that resulted in an Individual Employment Plan (IEP) that documents the appropriateness for the OJT.

The OJT Training Plan: The OJT Training Plan must be signed by the Employer, OJT Service Provider and Trainee prior to the commencement of the OJT. The Training Plan is unique and customized for each OJT Trainee. The Training Plan includes the skills to be learned, training hours and evaluation of skills gained.

REFERENCES

- [WIOA Section 3\(23\)](#)
- [WIOA Section 3\(44\)](#)
- [WIOA Section 134\(c\)\(H\)](#)
- [WIOA Section 188 \(a\)\(2\) and \(3\)](#)
- [Proposed rules at 20 CFR 680.700, 680.710, 680.720, 680.730 and 680.850](#)
- [Proposed rules at 20 CFR 683.260, 683.265, 683.270 683.275](#)

INQUIRIES: Questions may be directed to Sarah Smith, Executive Director of the Waccamaw Regional Council of Governments at (843) 546 – 8502.



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