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Workforce Development Agency, State of Michigan (WDASOM)
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To: Michigan Works! Agency (MWA) Directors

From: Gary Clark, Director, Office of Talent Development Services
Workforce Development Agency, State of Michigan
SIGNED

Subject: Workforce Investment Act (WIA) Funded On-the-Job Training (OJT)

Programs Affected: WIA Adult and Dislocated Worker (DW)

Rescissions: None

References: The WIA of 1998, Sections 101(31), 181 and 188
WIA Final Rule 20 CFR Part 663.700 through 663.730, and 20 CFR
667.268 through 667.275

Background: OJT, as allowed by the WIA, is a viable training tool for eligible WIA participants. OJT is an effective tool for participants who, after receiving core and intensive services, are unsuccessful in finding adequate employment.

OJT activities are training services provided to eligible participants via an OJT agreement between the local area and the employer. Training is conducted at the worksite. Such an agreement, along with the associated participant training plans, specifies the duration of training, as well as the skills and competencies to be acquired by the participant. Employers who provide OJT are reimbursed for their extraordinary costs of training the participant based on a percent of trainee wages during the training period. The length of the training period depends on the complexity of the job, as well as the participant's skills and prior work experience.



Workforce Development Agency, State of Michigan

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Employers must commit to hire and retain the participant at the end of a successful training period. OJT provides a legitimate and effective incentive to employers to hire individuals and invest in their skill development, while providing trainees the opportunity to earn a wage while they learn.

The purpose of this policy issuance is to:

- Encourage an increase in the utilization of OJT. OJT is a strategy that has a proven track record of helping unemployed workers gain new skills to find and retain employment.
- Provide basic standards and guidance for operating federally funded OJT under the WIA program.
- Develop consistent protocol and processes across workforce areas for delivering effective OJTs.

Policy:

WIA Sections 101(31) and 188 authorize OJT and provide the context for the OJT rules in 20 CFR 663 and 667.

WIA Section 101(31) defines OJT as training by an employer that is provided to a participant while engaged in productive work in a job that:

- Provides knowledge or skills essential to the full and adequate performance of the job;
- Provides reimbursement to the employer of up to a percentage of the wage of the participant for the extraordinary costs of providing the training; additional supervision related to the training; and
- 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.

This policy provides guidance for local areas to establish local OJT policy. Templates and sample OJT materials are located at <https://ojttoolkit.workforce3one.org/>. The WDA encourages each local area to develop materials specific to local area needs.

Participant eligibility

Before approving an OJT, the local area must assess the potential participant to ensure suitability for the training. The assessment, at a minimum, shall include the relevant occupation's specific skill requirements, the participant's academic and occupational skill level, prior

work experience and the Individual Service Strategy (ISS). The ISS must reference the lack of skills and need for OJT. The results of the assessment will be used, in part, to determine the appropriateness of and suitability for the OJT, along with determining the duration of the training.

Employer eligibility

OJT is provided under an agreement with an employer in the public, private nonprofit or private sector. Prior to entering into an OJT agreement with an employer, the local MWA shall conduct a pre-screening to ensure that the employer meets the minimum standards and can provide both training and long-term employment to an OJT participant.

A local MWA may not enter into an OJT contract with an employer who has previously exhibited a pattern of failing to provide OJT participants with continued long-term employment. Training positions covered by an OJT contract must not have been created by the displacement of employed workers in the same or similar position.

A local MWA may not enter into an OJT contract with employers who have relocated their business or part of their business from any location in the United States, in the past 120 days, that has resulted in any employee losing his or her job at the original location.

Employers must offer wages, benefits and working conditions that are equal to those provided to regular employees who have worked for a similar length of time and are doing the same type of work. The employer must comply with all applicable federal, state and local laws and regulations providing safe and clean working conditions.

If a union is present at the worksite, a union concurrence is required as part of the contract.

Local areas should target priority industries identified by local Workforce Development Boards consistent with a demand-driven workforce system. Occupations targeted for OJT should be defined in the local OJT policy and should align and support the Michigan Industry Cluster Approach. Targeted outreach should then occur within those industries.

OJT and Staffing Agencies

Many job openings are filled by “host employers” using staffing, or personnel agencies. Staffing agencies are usually the employer of record. They provide pay and benefits and are responsible for payroll taxes and workers’ compensation. The host employer is usually responsible for providing the work and work space. Training can be the responsibility of

the host employer, the staffing agency or both.

When formula WIA funds are used for an employment situation involving a staffing agency, several factors must be considered prior to approving OJT funding:

- Turnover Pattern

Is there a good chance of long-term, continued employment at the work site? Are new hires commonly let go just prior to the transition to employment by the host employer? Turnover patterns can be estimated based upon past experience at the work site and based on a pre-award review with the host employer and the staffing agency. If “yes” is the answer for the first question and “no” for the second, the local area should proceed as defined in local policy.

- Pay and Benefits

The pay rate must meet state and local requirements. Benefits must be the same for similarly employed individuals.

- Documentation

Whenever a staffing agency is involved, both the host employer and the staffing agency must sign off on all OJT documentation. Meeting OJT obligations is a dual responsibility of the host employer and the staffing agency.

- The Reimbursement Check

It is critical to reimburse only for the extraordinary costs of training. Therefore, the reimbursement must be made to the host employer, not the staffing agency and be exclusive of any fees paid to the staffing agency. Further information on reimbursement is detailed below.

OJT and Employed Workers

An OJT contract may be written for eligible employed workers when the following circumstances are met:

- The employee is not earning a *self-sufficient wage* (as determined by Local Board policy);
- Requirements in 20 CFR 663.700 are met; and

- OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to a new job that requires additional skills, workplace literacy, or *other appropriate purposes* (as determined by Local Board policy).

Employer Reimbursement

Payments to employers are to compensate them for the “extraordinary costs” associated with training participants. Employers are not required to document these extraordinary costs. However, they are understood to include costs resulting from:

- More intense supervision;
- Above average material waste;
- Abnormal wear on tools;
- Down time; and
- Lower rates of production.

The reimbursement is not a wage subsidy. Expectations are that the participant will continue working even after the payments to the employer end and that the participant will continue to receive compensation and benefits commensurate with the job performance.

Reimbursement to employers shall be managed by an invoice system that clearly documents the number of hours worked each day by the participant and rate of pay for the time period. Invoices must be signed by both the participant and the employer or only by the employer if accompanying documentation (timesheets/time cards) is signed by the participant. Reimbursement is for straight time worked and must not include overtime pay, holiday, sick pay, or commissions.

Reimbursements are limited to 50 percent, unless the MWA has an approved waiver that allows up to a 90 percent reimbursement rate for small employers (50 employees or less) and up to a 75 percent reimbursement rate for mid-sized employers (51 to 250 employees). Employer size is based on the employment at the company’s local operation where the OJT placements will be made. The local area shall submit a waiver request per WDASOM PI 12-11 to be eligible to write OJT contracts with the sliding scale reimbursement rates.

Local areas may decide that the reimbursement, or a portion of the reimbursement, will be withheld and dispensed upon retention. Local policy should clearly state the requirements for reimbursement and any exceptions to such (i.e., if the trainee quits or is fired for just cause). OJT reimbursements cannot exceed the amount obligated in the training plan, or any subsequent modifications.

OJT Contract

The OJT contract may be viewed as two parts. The two parts can be approached as separate documents, or combined as one. The first part of the OJT contract sets the ground rules for OJT with an employer and functions as a nonfinancial agreement between the employer and the MWA service provider. The terms and conditions that will govern the OJT experience along with the following are written into this part of the contract. The following assurances must be included in OJT contracts:

- Name of business, including predecessors and successors;
- Name, address and the title of company official certifying the information; and,
- Verification that there were no past/impending job losses at the other facilities due to relocation, prior to 120 days at the present location.

The second part, the OJT training plan is the part of the contract that outlines the planned training activities to be accomplished during the training period. This constitutes a financial obligation between the service provider and the employer, and authorizes reimbursement of the agreed upon amount on successful completion of the training plan period and the retention period.

The training plan portion of the contract must be a formal and written program of the structured job training, which will provide participants with an orderly combination of instruction in work maturity skills, general employment competencies and occupationally specific skills that will enable the participant to work toward self-sufficiency. OJT providers can use the U.S. Department of Labor's Occupational Information Network (O*NET – see <http://online.onetcenter.org/>) and/or a company job description as a basis to begin listing skills or tasks. Each skill description should be concise and comprehensive, and ensure the individual tasks are measurable and observable.

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, level of difficulty, and the participant's ISS. The level of difficulty is determined from an assessment of the job description. For example, if the job requires the repair of machinery, a determination needs to be made of tools needed, the precision needed to use the tools successfully, skills needed to diagnose problems, and the training needed to successfully disassemble and reassemble parts. O*NET is a useful resource to use in determining the length of training; however, O*NET should not be relied upon

exclusively at the risk of overlooking the needs, skills and abilities of the participant and the specific needs of the employer.

The training plan becomes the work statement of the contract and should be followed as a guide when delivering training. The training plan is also useful for determining whether the services contracted for are delivered. Local areas shall include in their policy, a way to identify skills needed for the job, how the skills gap is determined and a method for measuring that the skills have been acquired so that the trainees' progress can be determined.

At the end of the training period, the training plan should be used to document the participant's skill gains. An OJT is considered successful when the participant has sufficiently learned the skills included in the plan in order to retain employment.

The Training Plan shall include the following:

- Trainee information: Name, contact information and an unique identifying number for the participant;
- Employer information: Name and contact information;
- OJT information: Start and end dates, wage rate, and reimbursement rate;
- Occupational information: Job title and description, O*NET code, and number of hours per week;
- Job skills: Skills necessary to perform the job and the trainee's proficiency level for each of these skills;
- Training information: List of specific skills or tasks the employer agrees to provide to the participant, estimated training hours for each, and acknowledgment of skill obtained; and,
- Signed and dated: Signatures of the trainee, the employer and the service provider.

Insert your agency's payment terms in the OJT contract. Be clear and precise as to the terms of reimbursement. The OJT contract must be signed by representative(s) of the local workforce agency, the employer and, if applicable, the staffing agency that may be the trainee's employer of record.

Modifications to the training plan may be executed, as needed. The most common modification is extending the training period. The second most

common modification is changing a training plan. For example, work conditions may shift or the trainee may require new work duties or a position change.

Any dispute that involves a WIA-funded OJT shall be addressed by following the local workforce area's complaint procedures established for the WIA program. These procedures shall be shared with the employer at the time the OJT requirements are reviewed.

Monitoring

The WDA will monitor local OJT policy, OJT contracts and participant files as part of the yearly programmatic review. Key monitoring issues include verifying and documenting:

- The need for training based on the assessment and ISS;
- Training was provided to the participant to increase skill level;
- The length of OJT was reasonable;
- The employer reimbursement rate complied with policy; and
- Other applicable OJT rules and requirements (participant and employer eligibility) were followed.

See the WIA Comprehensive Program Review Guide for additional information.

Local areas shall develop their own monitoring policies to outline the procedures, frequency and manner in which OJTs will be monitored and how staff will resolve any findings of noncompliance.

Best Practices for a successful OJT

OJT Outreach

Outreach for OJT can occur at both the state and local levels, and to both employers and job seekers. Information about OJT should be integrated into the local MWA's business and job seeker services function. Objectives for outreach should be defined regionally and should be suited to the local employment conditions. The overarching goal should be to train local job seekers for employment in high-growth industry sectors or occupations within a demand-driven system.

Outreach can be done directly or indirectly. Outreach to employers can include face-to-face contacts, mailings (such as introductory letters, notes of appreciation, newsletters), involvement with the local economic developers, Chambers of Commerce, press releases, networking with other agencies, and speaking to civic organizations. Outreach is not mandated, but is viewed as a necessary piece of a successful OJT plan or strategy.

Gathering Employer Information

Creating an Employer Information Form is helpful in conducting a guided interview to gather the necessary information. The following provides best practices on “how to” gather the information:

- The OJT representative (MWA staff, Business Services Representative, etc.) should take both the OJT Employer Information Form and other OJT informational forms (agreement, requirements, sample contract, etc.) to the first visit with an employer. If the employer is interested in the program, these documents can then be signed by the employer and the OJT representative on-site.
- At the same time the Employer Information Form is completed, the OJT representative should also review the OJT requirements with the employer. These two completed and signed forms should start an employer master file with the local workforce agency.
- The employer information discussion should consider each employer’s circumstances. For example, relocation may not necessarily be discussed with a locally owned motel that has been at the same location for fifteen years and is filling a vacancy caused by normal attrition. However, relocation should be discussed in depth with a national firm with many subsidiaries that are relocating in the area.
- The Employer Information Form should be updated when the business is sold or transferred, when any other major changes affecting training, hiring or job retention occur, and at least once a year from the date of first issuance.

The following provides a best practice for working with employers if the local workforce area chooses a “blanket” OJT agreement. The blanket OJT agreement is nonfinancial, contains all common OJT rules and requirements, and sets the stage for the approval, one by one, of individual OJT training plans. This approach radically decreases employer paperwork. Care should be taken to ensure that:

- OJT training plans are adjusted based upon each trainee’s prior related skills and experience and the specific job in which training is taking place,
- The trainee is WIA-eligible and registered into the formula funding stream that will pay for the training,
- Training using the OJT approach is justified by the ISS or plan in

the trainee's file; and,

- If a union is present, a letter of concurrence shall be obtained. The letter will be valid throughout the agreement period.

Generally, blanket OJT agreements may be valid for up to one year and cover all training plans approved with the employer prior to the OJT agreement's end date.

OJT Quality Assurance and Monitoring

Monitoring is the responsibility of both the state and the local workforce agency, though the duty may be assigned to another designated entity or individual. Monitoring at the local level will include oversight of the participant training and the corresponding employer payroll records.

Every OJT worksite should be visited regularly. The first visit should occur prior to the execution of the OJT contract. At this time, the OJT employer information can be gathered and the OJT requirements understood. The worksite should also be visited near the completion of training to ensure that the training has been successfully delivered and wage records can be verified. The local area may want to include information received from the participant as part of the review process.

Action: All MWAs shall have a local OJT policy for the execution of OJT contracts. This policy may be under separate cover or may be included in the local comprehensive plan. Local OJT policies and contracts will continue to be reviewed during annual WIA Program Reviews.

Inquiries: Questions regarding this policy issuance should be directed to your WIA State Coordinator.

This policy issuance is available for downloading from the Internet system. Please contact Ms. Teresa Keyton at (517) 335-5858 for details.

The information contained in this policy issuance will be made available in alternative format (large type, audio tape, etc.) upon special request to this office. Please contact Ms. Keyton at (517) 335-5858 for details.

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