

**Trident Workforce Investment Board
Workforce Investment Act**

ON THE JOB TRAINING (OJT) POLICY

TO: SC Works Trident Operators and Youth Contractors

ISSUANCE DATE: May 13, 2014

EFFECTIVE DATE: May 13, 2014

SUPERSEDES: July 31, 2013, May 15, 2012, April 12, 2011, June 30, 2008 and May 1, 2007

SUBJECT: OJT Policy

PURPOSE:

The purpose of this policy is to establish guidelines for providing OJT to WIA Youth, Adults and Dislocated Workers.

This OJT policy will follow and stay compliant with the State of South Carolina regulations and any changes thereto.

POLICY:

In accordance with WIA Regulations Sections 663.200 and 663.430, OJT must be provided to customers as a training service. Also See Customer Accident Policy.

The Grantee will not reimburse the employer for hours paid to a participant for holidays, sick days, vacation days, etc. These types of hours are considered to be fringe benefits and not training hours. Employer payments are considered to be compensation for the extraordinary costs associated with training participants and compensation for the costs associated with the lower productivity of such participants which is line with the WIA Rules and Regulations.

PROCEDURES:

1. On-The-Job Training (OJT) Definition:

OJT is provided by an employer to a paid customer while engaged in productive work. The OJT must:

- a. Provide knowledge or skills essential to the full and adequate performance of the job;
- b. Provide reimbursement to the employer of up to 75% of the wage rate, unless the specific funding stream allows for a higher rate, of the customer; and
- c. Be limited in duration based on the content of the training, the prior work experience of the customer, and the Individual Employment Plan.

2. Eligibility:

Training services may be provided to youth, adults and dislocated workers in accordance with the WIA Regulations 663.310, the Trident Area Eligibility Policy and the Trident Area Priority of Services Policy.

OJT Contracts may be written for eligible ***employed*** workers only when:

- a. The employee is not earning a self-sufficient wage in accordance with the Trident Area Self-Sufficiency Definition Policy; and
- 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, or workplace literacy.

Minimum Standards for On-the-Job Training:

- a. SC Works Trident should identify positions for OJT making no less than \$10/hour. The hourly wage minimum is subject to change pending Board direction and in the event there is a change in the minimum wage laws.
- b. SC Works Trident should not place an individual in an OJT contract if the participant already possesses the necessary skills to perform the job requirements.
- c. Classroom training may lead to an OJT, but may not be entered into simultaneously. If a client receives classroom training, an OJT following the completion of the training should be directly related to the classroom training.
- d. All OJT contracts must be full-time, defined as at least 30 hours per week or more. Participants may work under OJT over 40 hours per week; however the employer will only be reimbursed up to 40 hours.
- e. All OJT contracts must be for permanent positions, temporary jobs will not be considered eligible for OJT funding.

3. OJT Contract:

OJT is provided under a contract with an employer in the public, private non-profit or private sector. Through the OJT contract, occupational training is provided for the WIA customer in exchange for the reimbursement of up to 75% of the wage rate, unless the specific funding stream allows for a higher rate. OJT contracts should ensure that customers are provided a structured training opportunity (Training Outline) in which to gain the knowledge and competencies necessary to be successful in the occupation in which they receive training.

Training outlines must specify what the participant is to learn during OJT. Specific skills to be acquired for the actual job should be provided to ensure that both the participant and the employer will focus on training in skills rather than simply on employment in a job.

Using O*Net and the Standard Occupational Classification (SOC) System, the Specific Vocational Preparation Code (SVP) will be used to indicate the level of sophistication that an occupation requires.

The length of OJT may not exceed the period of time generally required for acquisition of skills needed for the position within a particular occupation, and the length of training will be negotiated with the employer within the following hourly limits which is in line with the WIA Rules and Regulations:

SVP Skill Level	Maximum Training Hours
1	Not allowed
2	160
3	160
4	240
5	320
6	400
7 and above	490

Exceptions to the above Minimum Standards for the On-the-Job Training and the Length of the OJT can be made by the Executive Director in certain cases provided there is a significant reason as documented by the employer and the Business Development Coordinator.

To ensure that workers and employers have a common understanding of the goals and purpose of the OJT assignment, the OJT contract must:

- a. Identify the occupation;
- b. Identify the skills and competencies to be learned (Training Outline);
- c. Identify the length of time the training will be provided;
- d. Provide written assurance that the employer has violated no Federal law within 3 years from the date of the contract; and
- e. Provide written assurance of employer compliance to all items.

Fair labor standards require that the OJT wage must be commensurate with the wage of what a similarly skilled individual would receive for the same occupation.

The OJT Contract form must be completed and signed by all parties PRIOR to the beginning of the OJT. The contract with original signatures must be provided by the Business Development Coordinator or Youth Program Manager to the Contracts Manager (BCDCOG) in whose office it will be maintained. A copy will be maintained in the customer file and copies provided to the WIA Account, employer and customer.

Contracts should not be written with an employer who has previously exhibited a pattern of failing to provide OJT customers with continued long-term employment with wages, benefits, and working conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work.

4. OJT Packet for Employer/Worksite Reviews:

a. Contract Checklist Review:

Business Development Coordinator must complete the attached OJT Contract Checklist form PRIOR to the development of an OJT contract with careful attention given to that section of the checklist where the employer is asked to indicate what services they would like for the WIA participant to have prior to the start of the OJT. The form must be signed and dated by the reviewer and employer. A copy must be maintained in the customers file.

b. On-Site Compliance Review:

The Business Development Coordinator must conduct an on-site review of the OJT workplace two weeks following the date of employment. The attached OJT On-Site Compliance Review

form must be completed, signed and dated by the reviewer, employer and employee. The original must be maintained in the customers file.

c. Documentation Needed:

It is the responsibility of the Workforce Specialist to maintain copies of the following:

- attendance sheets;
- pay stubs;
- Timesheets; and
- Proof of Workers Compensation.

Submit copies of the above documents to the Business Development Coordinator when submitting the invoice for the OJT contract to be paid.

d. Workers Compensation:

The procedure for Workers' Compensation will be followed as outlined under the On-the-Job Training (OJT) Federal Regulation Requirements under Workforce Investment Act (WIA) Section 20 CFR 667.274:

(i.) Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees are equally applicable to working conditions of participants engaged in programs and activities under Title I of WIA.

(ii.) (1) To the extent that a State workers' compensation law applies, workers' compensation must be provided to participants in programs and activities under Title I of WIA on the same basis as the compensation is provided to other individuals in the State in similar employment.

(2) If a State workers' compensation law applies to a participant in work experience, workers' compensation benefits must be available for injuries suffered by the participant in such work experience. If a State workers' compensation law does not apply to a participant in work experience, insurance coverage must be secured for injuries suffered by the participant in the course of such work experience.

VERIFICATION OF WORKERS' COMPENSATION INSURANCE IS REQUIRED BEFORE PLACING A CUSTOMER IN WORK EXPERIENCE. DOCUMENTATION MUST BE KEPT IN THE HARD COPY FILES AS NOTED ABOVE.

5. Regulatory Requirements:

The following regulatory requirements must be adhered to in the provision of work experience and OJT activities.

a. Fair wage and labor standards:

1. Individuals must be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience and skills. Such rates must be in accordance with applicable law, but may not be less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or the applicable State or local minimum wage law;

2. Individuals must be provided benefits and working conditions at the same level and to the same extent as the other trainees or employees working a similar length of time and doing the same type of work; and
3. Allowances, earnings, and payments to individuals participating in programs under Title I of WIA are not considered as income for purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or federally assisted program based on need other than as provided under the Social Security Act.

b. Health and safety standards:

1. Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees are equally applicable to working conditions of customers engaged in programs and activities under Title I of WIA.
2. To the extent that a State workers compensation law applies, workers compensation must be provided to customers in programs and activities under Title I of WIA on the same basis as the compensation is provided to other individuals in the State in similar employment.

c. Nondiscrimination:

1. Employers must comply with the nondiscrimination and equal opportunity provisions of WIA section 188 and its implementing regulations, 29 CFR part 37.
2. Customers can be trained in sectarian activities as described in TEGL 1-05. "WIA funds can be utilized to support employment and training in religious activities when the assistance is "indirect" in the meaning of the Constitution. Assistance is considered "indirect" when customers are given a genuine and independent private choice among training providers or program options and can freely elect from such option to receive training in religious activities. Additionally, any employment, training or services offered must also satisfy the requirements of the program."

d. Displacement:

1. A WIA customer shall not displace (including a partial displacement, such as reduction in the hours of non-overtime work, wages, or employment benefits) any currently employed employee.
2. A program or activity authorized under title I of WIA must not impair existing contracts for services or collective bargaining agreements.
3. A customer in a program or activity under title I of WIA may not be employed in or assigned to a job if:
 - (a) Any other individual is on layoff from the same or any substantially equivalent job;
 - (b) the employer has terminated the employment of any regular unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy so created with the customer; or
 - (c) the job is created in a promotional line that will infringe in any way on the promotional opportunities of currently employed workers.

Ronald E. Mitchum, Executive Director
BCDCOG

Date